

**PLANNING BOARD MINUTES
MONDAY, SEPTEMBER 9, 2013
BUTLER MEMORIAL HALL
48 GENESEE STREET, NEW HARTFORD, NY
RODGER REYNOLDS MEETING ROOM
5:30 P.M.**

The Regular Meeting was called to order by Chairman Elis DeLia at 5:30 P.M. at which time the Pledge of Allegiance was recited. In attendance were Board Members Peggy Rotton, G. Brymer Humphreys, William Morris II, and Ellen Rayhill. Board Members absent: Julius Fuks, Jr., and Heather Mowat. Also in attendance: Councilman David Reynolds, Town Attorney Herbert Cully, and Recording Secretary Dory Shaw.

Draft minutes of the August 12, 2013 meeting were received by each Board Member. Motion was made by Board Member Peggy Rotton to approve these as written; seconded by Board Member Ellen Rayhill. All in favor.

Public Hearing: Special Use Permit/Site Plan Review by Upstate Cellular Network dba Verizon Wireless for a proposed telecommunication facility and associated equipment on property at 511 Higby Road, New Hartford, owned by Charles T. Sitrin Health Care, Inc. Tax Map #340.000-2-21.1; Total Lot Size: 121.98 Acres; Zoning: Planned Development Institutional. Robert Panasci, Esq., of Young/Sommer LLC Law Firm (representing Upstate Cellular), Ms. Christine Howell, Building Reliable Networks, and Mr. Richard Wilson (representing Charles T. Sitrin Health Care), appeared before the Board.

At this time, Town Attorney Cully went through the Town Law regarding telecommunications facilities. In order to expedite the Public Hearing, he gave some background of the existing Ordinance. If they are within 750' of a residential district, there is a two-prong test for a Special Use Permit and Site Plan Review. There needs to be a Public Hearing to enable residents to voice their opinions. The Special Use Permit/Public Hearing relates to whether or not this is compatible to the neighborhood, whether or not the cellular company is able to provide service, show that it is unable to co-locate (to show there isn't any existing buildings that they can tack onto), show buffering/aesthetically pleasing designs. Town Attorney Cully further stated that under New York State Law, this is a utility company. Any utility is afforded special treatment – you simply cannot say no.

Robert Panasci, Esq. referred to several sketches he prepared indicating the type of cell service available in this area and what needs to be accomplished to provide better service. This is a 145' tower and the height is essential to provide service. He referred to antennas and coverage calculations. They are attempting to get 4g coverage; 3g is there now. 4g provides better capabilities and can connect to other cell towers. Reason being you don't lose coverage –

coverage continues. The reason for the height is so the towers relate to other towers; it will meet the needs of AT&T and Sprint also. He explained why the water tank is not an acceptable place to add onto as it sets too low. They looked at co-locations but they would still need to put a tower up – other locations didn't work. There is one general communications tower. The sketches also demonstrated other areas where no service, or limited service, was available.

Attorney Panasci saw the comments from Oneida County DPW and have addressed them, however, Town staff has not received these replies yet. He will make them available and he feels all comments have been addressed.

Chairman DeLia opened the Public Hearing at approximately 5:50 P.M.

-Mr. Jim Peters, 424 Higby Road. He is concerned about property values. He wanted to know how close this would be to the water tower. Attorney Panasci referred to the map.

-Dr. Albert Shaheen. He is the closest property owner to this tower. He has hoped for a tower in this area for 20 years. Cell phone service is terrible. He mentioned that his family have been patients at Sitrin and not being able to contact them with a cell phone. The need for cell phone reception is imperative. Cell phones are a way of life today. People are getting rid of land lines. Rejecting this proposal would be a mistake. A cell tower is not ugly. He strongly encourages approval of this project.

-Mr. Sid Perry, Higby Road. He sent a letter to the Planning Board regarding this application (which has been made a part of the file; it was received the day of this meeting). He asked how many people requested this tower. Ms. Christine Howell addressed this. He feels the notice to the residents should have mentioned the height of the tower. He feels this tower would devalue his property and wants it relocated to another area. He agrees with the need for a cell tower, but not here. People have expensive homes in this area. Mr. Perry also addressed a blinking light which would be at the top of the tower and which would blink 24 hours a day. His family has lived here since 1899, he pays taxes and he is against this.

Mr. Paul Bisaccia, 22 Augusta Drive. How can Verizon make this tower aesthetically pleasing. He has seen these towers before and they don't look good. There are small children in the area and what are the long term conditions, i.e., microwaves.

Town Attorney Cully said federal regulations state this Board does not consider microwaves because there is no proven correlation.

-Mr. Tony Vitullo, 420 Higby Road. His cell phone works and he doesn't need additional coverage. If he can make a call from his phone, why are we having this discussion. He said there are 20 cell towers in a four-mile radius – what about co-locating. He stated that Sitrin has a lot of property, why not move it somewhere else on their property, i.e., the back corner where no one sees it.

-Mr. Richard Sherman, Supt. of Highways. He is a retired police officer as of 2008 and now Town of New Hartford Highway Superintendent. For several years, confidential information was given over the phone. Several times going in that area calls were lost. In a

storm he depends on cell phone coverage. He agrees with Dr. Shaheen – this cell tower is needed. He loses coverage in this area frequently.

-Mr. Rick Wilson, recently retired C.E.O. of Sitrin Health Care. He stated he gets about 350 complaints from residents, and patients about the cell service. Sitrin has land lines but when patients are told they have to pay for this service, they don't get it. He is asked continuously for better cell service.

-Dr. Rao. His concern is property values.

-Ms. Heil, 434 Higby Road. She is also concerned about property values. She knows cell coverage isn't good, but would like Sitrin to look somewhere else.

-Dr. Albert Shaheen. He doesn't understand how this would affect property values. The water tank has been there for many years and that is a disruption of view. This site was probably chosen because the ground is elevated at this point.

-Mr. Paul Bisaccia asked how many people were approached for a cell tower – the answer was approximately four. He had data of other towers in the area over 150' – he feels we should use those facilities.

Chairman DeLia asked for any additional comments. There were none. The Public Hearing closed at 6:05 P.M. There will be no further interaction between this Board and the public.

Town Attorney Cully asked Attorney Panasci for a site distance evaluation and a buffering/landscaping plan. Further, a balloon test before the next meeting. The applicant must submit substantial foliage and landscaping in keeping with a residential area. Attorney Panasci said their intent was to go through a Public Hearing then submit documented information. He doesn't have this for us tonight. He agrees with our request and will do a visual.

Chairman DeLia reminded him that this Board would like to see responses to Oneida County DPW as well.

Attorney Panasci referred to Tab #4 of the submittal packet which addressed where they have looked at other sites for co-location. Once they found it, it wouldn't work, they started looking elsewhere.

Attorney Cully referred to the other towers as mentioned by Mr. Bisaccia. Attorney Panasci said they looked at them; engineering does evaluations of where the need is and all ten towers weren't workable.

Chairman DeLia asked if other sites besides Sitrin were looked into. Attorney Panasci said this area is high; further back on Sitrin the tower would have to be higher. Ms. Howell said the other areas are where elevation dropped quite a bit and wouldn't work out.

Board Member Rotton referred to other locations shown on Tab #4, A & B of their packet and if they considered these areas. Attorney Panasci said that Sitrin didn't want to use other property locations, as it would hinder future development.

Chairman DeLia asked the Town Attorney to give him a list from federal and/or state law of things this Board cannot consider in our review. This Board has to be responsible. He wants to make sure it meets federal and state law.

Town Attorney Cully asked Attorney Panasci, if we have more members at the next meeting, does he have a problem waiving any objection to members of the Board not here for the Public Hearing participating in the vote? Attorney Panasci said no, he has no objection.

Town Attorney Cully will be sent a list of items – a recap and anything else we want to get together to review before the next meeting.

Board Member Rayhill asked, the height has to be above the trees but how far. Attorney Panasci said high enough to provide for other locators. They will check with their engineers to make sure the height is adequate. He doesn't know if they can go to a lower level.

Chairman DeLia said until we receive additional items, we will review this application as incomplete as far as a vote. The Public Hearing has been held and it is done. Here is a list of what was discussed for further information:

- Landscaping/buffering plan submitted by Verizon
- Visual plan showing structure/site distance evaluation submitted by Verizon
- View shed analysis submitted by Verizon
- Alternative to Sitrin submitted by Verizon
- Any information/laws on a federal and state level of items the Planning Board can't consider – submitted by Town Attorney Cully

The Board Members discussed the drop zone factor. Attorney Panasci said if that happened, the pole would drop on their property far away from any structures.

Discussion of when the next meeting was to be held because of a holiday in October. It was suggested Tuesday, October 15, 2013. Secretary Dory Shaw will look into this further.

Chairman DeLia would like additional submittals/information as soon as possible to address before the next meeting if the applicant would like to reappear in October.

Mr. Ronald Bazan II: Preliminary/Final Site Plan review of a proposed bakery at 8636 Seneca Turnpike, New Hartford (former Danella's Photography). Tax Map #328.016-3-31; Lot Size: 1.5 Acres; Zoning: Planned Highway Business. Mr. Ronald Bazan appeared before the Board.

Mr. Bazan explained that he would like to open a bakery with bread, pastries, and coffee. It will be a carry-out, but he may or may not have 2 or 3 tables with two chairs at each. There is plenty of parking on site. He is before this Board as the use of this existing building has changed.

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Chairman DeLia mentioned that OC Planning has no comments on this use, and NYSDOT did not have any comments.

Motion was made by Board Member Bill Morris to grant Preliminary and Final Site Plan approval to this application as shown on submittal received August 14, 2013; seconded by Board Member Peggy Rotton. All in favor.

The October Planning Board meeting date was discussed. It was decided to have the meeting on Tuesday, October 15, 2013.

There being no further business, the meeting adjourned at 6:20 P.M.

Respectfully submitted,

Dolores Shaw
Secretary

dbb