

**TOWN OF NEW HARTFORD
PLANNING BOARD MINUTES
RODGER REYNOLDS MEETING ROOM
MARCH 14, 2016
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 G. Brymer Humphreys, Julius V. Fuks, Jr., Lis DeGironimo, William Morris, Peggy Rotton and Heather Mowat. Also in attendance: Town Attorney Herbert Cully, Codes Officer Joseph Booth, Highway Superintendent Richard Sherman, Mr. David Reynolds, Councilman; and Dory Shaw, Secretary.

Draft minutes of the January 11, 2015 meeting were received by each Board Member. Motion was made by Board Member Bill Morris to accept these minutes as written; seconded by Board Member Brymer Humphreys. All in favor.

SPECIAL USE PERMIT: Mrs. Kathy Maine, 8283 Seneca Turnpike, Clinton, New York (Town of New Hartford). Fence along side yard. A fence in any commercial district has to have a Special Use Permit approved by the Planning Board. Thus, the application. Tax Map #328.010-2-5; Lot Size: approximately 200' x 200'; Zoning: C1 General Commercial. Mrs. Kathy Maine appeared before the Board.

Codes Officer Booth explained that our Code does not address standards for fences in Commercial zones – the Planning Board has discretion. The fence is 6' in height and located on the side of her property. Board Member Mowat questioned the process for a Special Use Permit – Codes Officer Booth explained. This review is necessary for approval of the fence.

After discussion, motion was made by Board Member Bill Morris to **approve the Special Use Permit** for Mrs. Maine; seconded by Board Member Julius Fuks. All in favor.

Mr. Anthony Furino, Mohawk Street, New Hartford, New York. 4 LOT MINOR SUBDIVISION, Mohawk Street, New Hartford. Tax Map #340.000-4-26.2; Total lot size: approximately 32 Acres; Zoning: RA Residential/Agricultural. Attorney Mark Levitt and Mr. Anthony Furino appeared before the Board.

Attorney Cully explained that Dr. Furino would like to subdivide his parcel into four large parcels – frontage is more than adequate. The only issue is that there is a freestanding barn on one of the parcels. It is not an accessory building unless it is an Agricultural use then they are allowed to have that freestanding barn. There is a contract with Dr. Furino and a gentleman who intends to buy on the property. Property descriptions are accurate – there are no issues. Codes Officer Booth does not have any issues.

Board Member Humphreys spoke regarding the Town not having a Land Use Plan in effect where we

wouldn't be losing any agricultural use – he would like to see the Town Board entertain this concept. Town Attorney Cully stated current law permits this, and this proposed subdivision doesn't affect the approval process. Board Member Rotton referred to a stream that runs through one of the lots. Attorney Levitt stated this is in the Town right-of-way. Discussion ensued regarding wetlands classification.

Motion to approve this four-lot subdivision was made by Board Member Bill Morris of map submitted by Cornerstone Land Surveying dated May 28, 2000 and updated December 3, 2010; seconded by Board Member Heather Mowat. All in favor.

SPECIAL USE PERMIT: Upstate Cellular d/b/a Verizon Wireless. Proposed 125+/- telecommunications pole on property owned by Mr. & Mrs. Fred Cardarelli. **Location: 144 Merritt Place, New Hartford, New York.** Tax Map #328.000-4-5.1; Lot Size: approximately 15.33 Acres; Zoning: Low Density Residential. Scott Olson, Esq. of Young/Sommer, LLC appeared before the Board.

Town Attorney Cully recited what is required under a Special Use Permit for a telecommunications facility. This property is zoned Low Density Residential and he stated what our Ordinance requires in a residential district for this facility. The applicant has to show they wouldn't be able to provide service unless they put a tower in the residential area or to co-locate. He referred to a former application on Higby Road with photographs on what the facility would look like.

Attorney Olson said they looked into several sites in the area and are running into problems with them. He referred to Exhibit 5 in his packet. This report is done by an engineer from Verizon Wireless. Two of the existing sites, Utica Mutual and another site in New Hartford are failing. Each cell site can only handle a certain amount. When the sites go out of capacity, they create less service. He referred to the areas where there are gaps. They had people go through the area to find existing towers to place additional units. They found those areas unfavorable – he referred to Exhibit 8. He also showed the area they have to be in because of existing sites. The engineer put together the search area. One area is the nearby school and that is zoned Institutional. The school did not want them to locate there – they have health concerns/questions and declined their offer. The only other large property in this area is the one they are proposing. He knows there are many homes in this area, but their visual analysis, except for Exhibit 7, provided a number of photos. This tower is well sited so it is not going to be very visible in the areas. He explained the mile radius.

Chairman DeLia asked if it would work at the school. Attorney Olson said they could make it work but the school isn't interested. Attorney Olson addressed height requirements. They have to make sure the height is well above the tree level – they need to get the signal through. A 110' pole wouldn't work – too low. This wouldn't do the public any good at that height.

Board Member Mowat referred to the Utica National site and the other New Hartford location – why can't something be put there. Attorney Olson explained the FCC regulations. She wanted to know if there was significant discussion with the school. Attorney Olson didn't have that information but would get more details. They have put some facilities at schools, but this school does not want to do this. She also referred to a proposed development in that area. Board Member Mowat asked if they approached anyone else. Attorney Olson said they are proposing this site and also the school district.

Attorney Cully asked if that looked into the water tank off Gilbert Road – yes but the tank isn't tall enough. Also, he wondered if any consideration was given to placing an antenna on the water tank at Sherrillbrook Park. Attorney Olson said this would be looked into.

Chairman DeLia referred to what this Board has done in the past, hiring an independent engineer to review this at the applicant's expense. His name is Bill Johnson. He will be contacted and asked to review this application. He needs to address the capacity issue and law requirements. Secretary Dory Shaw will follow up on this.

Chairman DeLia referred to the visual from the school and their concerns. The law is very clear. We can't consider health as an issue. The federal government has a law on this.

Board Member Fuks cannot locate performance metrics in their report. He didn't see a reference to upgrade for adding a new antenna. He feels it is not looking at what the existing facilities can handle. Do you need a new tower with an upgrade – he can't find it in the report. He doesn't know what that standard is. Attorney Olson said the facilities have been upgraded to the extent they can. He will have their engineer look into this, i.e., what the existing antennas can do with newer technology. Board Member Fuks referred to expansion to an existing monopole – something on the antenna may give them the additional capacity. When the engineer gives that evaluation, he may have another suggestion.

Board Member Morris referred to the other location in New Hartford – it is the Yahnundasis site. It has a short antenna, about 100'. He asked if that can be added with an antenna – Attorney Olson said no. It doesn't add to capacity.

Chairman DeLia stated the difference between this area and Higby Road: this is a capacity issue not a gap in service. He would like to see more picture of the school site. Town Attorney Cully said the school can deny them being on the property. He was asked if the Town had any easements through the school property. He did not know. Attorney Olson said he didn't think they have eminent domain rights.

Codes Officer Booth referred to a resident who lives on Great View Road and there are no visuals shown on the entire street. He would like Attorney Olson to provide photos of the proposed cell tower in relation to this area. Attorney Olson felt there isn't much visibility in this area as this tower sets in a depression. The people on the upside of the road may see it. He asked the Board if they had any other location for pictures as he would like to do this all at once.

Board Member Humphreys addressed the pictures being taken during the winter – in the spring and summer there would be more vegetation. He wanted the engineers to provide us with what they have for equipment on the existing sites and whether that equipment could be upgraded. It is not in the report and he wants it placed in this report. The existing facilities can't be updated with the antennas in place? We don't know this. What monopoles can handle without putting up a new tower – there may be options for existing sites without putting in a new facility. Attorney Olson will have the engineer review this.

Chairman DeLia asked how high a tower would be on that property – Attorney Olson will find out. They already upgraded the current facilities.

Board Member DeGironimo asked about the capacity before and after they were updated – what is the previous use and what updates are required. Attorney Olson will address this with the engineer. She referred to demonstrating need. What is the problem now? There is not a lot of development and why do we need the capacity. When did it reach the threshold – Exhibit 5 addresses this. .

Chairman DeLia stated Codes Officer Booth reviewed the plans and now they meet the requirements for Preliminary Approval. This is an initial approval to get going with the review process. Also, that an independent engineer be hired at the applicant's expense to review this application. He asked Town Attorney Cully and Codes Officer Booth if they had any issues about moving forward – they did not.

Motion was made by Board Member Brymer Humphreys to grant Preliminary Approval; seconded by Board Member Peggy Rotton. Vote taken:

Chairman Elis DeLia – yes	Board Member Brymer Humphreys – yes
Board Member Julius Fuks, Jr. – yes	Board Member Peggy Rotton – yes
Board Member Bill Morris – yes	Board Member Lis DeGironimo – yes
Board Member Heather Mowat – no	

Motion to approve was passed by a vote of 6 – 1.

Timeline was discussed. Attorney Olson said he tried to get on the agenda earlier but had some setbacks. However, he has done these submittals before and will work with the Town and Planning Board. This Preliminary Approval starts the process for SEQR. Board Member Mowat asked if there was a time element. Attorney Olson said they are governed by FCC rules. He explained the time limit for new towers, that it is supposed to be approved within 150 days of submission of application. He explained the time frame. He will ask to extend the time

At this time, motion was made by Board Member Bill Morris to declare the Planning Board Lead Agency for a coordinated review under SEQR; seconded by Board Member Brymer Humphreys. All in favor.

Also, motion was made by Board Member Julius Fuks, Jr. to have a review made by an independent engineer to be paid by the applicant; seconded by Board Member Bill Morris. All in favor.

Applewood Heights, Phase II, 38 sites, Major Subdivision off Applewood Community, Seneca Turnpike, Clinton, New York (Town of New Hartford). Proposed expansion of Applewood Heights, Phase II – 38 sites. Tax Map #328.000-2-1; Lot Size: approximately 52 Acres; Zoning: Mobile Home. Mr. Donald D. Ehre, P.E., and Mr. John Barkett appeared before the Board.

Town Attorney Cully explained this is Phase II at the Applewood Community. Codes Officer Booth explained that the lots did not get individual tax map numbers. The previous Phase (Phase I) was not done as a subdivision either. This is an extension but the parcel is remaining tied in the entity currently owned by Mr. John Barkett. This is a Site Plan Review.

Mr. Ehre displayed a sketch of the project. He referred to the area that was previously approved in 2010. The northerly section of this property is the wetlands – both NYSDEC and Army Corps of Engineers regulated – they aren't touching those. They have taken an area and putting in a land conservation easement. Traffic will be able to circulate and cul-de-sac to the southeast. All lots are serviced by public water and sewer. All roads are Town roads – all traffic will go out to the traffic light on Seneca Turnpike. They have addressed storm water issues.

Board Member Humphreys referred to the ownership of the conservation lease. Those leases have to be owned by somebody responsible for maintaining the long-term subdivision. It was mentioned that someone's attorney will address this and have it reviewed. He also asked Town Attorney Cully if the Town had any other easements – he hasn't seen one. Board Member Humphreys is concerned whether the Town can address it many years from now. He would rather see a conservation easement by a group on a regular basis. Mr. Ehre said the Town of Marcy has executed those kinds of easements. Town Attorney Cully asked if this placed the burden on the Town – Mr. Ehre said no. Town Attorney Cully will look into this.

Discussion ensued regarding that lot and what it is used for – Mr. Ehre said an accessory building. We need to know that because these lots are legal size and conform to the Zoning Ordinance. If they came back at some point to be subdivided, they would have to go through a major subdivision. Mr. Ehre has to design the sights. Mr. Barkett explained the tax map issue for this development.

Mr. Ehre explained a conservation easement. Any use would be defined in the agreement. The Town would have no intention of mowing it. Total acreage of the conservation area is 37.85 acres. A sizeable piece is left for wetlands and space. The only future use might be walking trails – no soccer fields or anything like this. Town Attorney Cully asked if they had a problem detailing specific things in the agreement – Mr. Ehre said no.

Chairman DeLia stated it looks like a good thing between the developer and the Town. Town Attorney Cully will make sure there is no liability for the Town.

Board Member Fuks addressed the storm water basin as proposed and we have to look at safety issues. Mr. Ehre stated the Town engineer will address this. Mr. Ehre explained how the basin is designed.

Board Member DeGironimo presented a few photos and stated there is over 2.4 acres disturbed and there is no impervious surface noted on the application. There is a gravel driveway and also a tree line that has been cleared. She presented photos from years past that this has been cleared. Mr. Ehre stated any storm water management he did was because he thought there was no impervious area. Mr. Ehre did not consider graveled or dirt drives as impervious. He will amend this table if directed by the Town's reviewing engineer.

Board Member DeGironimo expressed concern with the application before this Board. She showed photos of the storm water collection and hydrant installation in the first phase of Applewood Heights. One hydrant valve is installed in the middle of a cobbled storm water collection area, which presents a hazard to fire fighters and MVWA employees. Another photo showed a hydrant base and valve in a smaller storm water collection area under 6" to 8" of water. The photos were taken many days

after the most recent rainfall. If hydrants are able to not drain properly, they will not operate under freezing conditions.

For the Phase II application, Board Member DeGironimo questioned why the SEQR form showed no impervious area when there have been over two acres cleared and a road base has been installed. She introduced aerial photographs of the project area taken in 2003, 2008 and 2013. The road base was constructed and the acres cleared after 2008 and before 2013. This clearing was not reflected on the application.

Mr. John Barkett stated that he had a clearing permit and SWPPP for the first phase and the driveway was created at that time.

Board Member DeGironimo still questioned the clearing. Also, she is concerned about the design and construction of the second phase because of the construction of the first phase (hydrant/storm water installation).

All photos have been made a part of the file.

Mr. Ehre said that Mr. Barkett will perform the work necessary to correct the drainage situation around these hydrants. Mr. Ehre checked with the surveyor and he stated that his records show the as-builts were sent to the Water Board on September 10, 2013. He also checked with Mr. Jones of the Water Board who said he does not have them – they will be sent out again. Mr. Ehre's letter of March 15, 2016 has been made a part of the file.

Mr. Barkett explained what their original plan was, which was to go out to Route 5. They have used this road as a haul road. They have a clearing permit from the Town, and also a SPDDDES for the whole parcel. The former Town Engineer was the last person involved with this. Mr. Ehre also stated that Phase 2 area was not covered in the Phase 1 SPDES permit.

Chairman DeLia said this was in Phase I? Yes. He understands the hydrant issue in Phase I. Is the current application valid? Town Attorney Cully said they should amend their application because it is inaccurate as presented.

Board Member Fuks recognized Phase I. The access drive, dirt roads, etc. Unfortunately, he feels a lot of review is interpretation. Without seeing the exact model, it is hard to say how to deal with this. He has a hard time saying that this is misrepresented.

Chairman DeLia feels everything will come out during the SEQR process. Town Attorney Cully still feels they should amend their application and provide that additional documentation. Mr. Ehre said this is a table in the SEQR form. When they did the calculations, some of the roads were cleared. They assumed under their calculations the area is grass or treed. They assumed they were going from grass to pavement. Mr. Ehre is more concerned on the storm water issues as opposed to a partially developed area.

Board Member Mowat asked if they didn't want to revise the application. Mr. Ehre is happy to revise it but he wants to get this process moving. He will amend it.

Board Member Fuks asked about the volume of storage contained in the proposed storm water basin. He cannot make a judgment without reviewing the numbers. If he changes it, what happens to the storm water detention. Mr. Ehre said the volume is 1.6 acre-feet – this is below the 3.07 acre-feet threshold set by the NYSDEC for small dams.

Chairman DeLia believes the SEQR process will address those issues, and also our Town engineer will address it. His preference is we go forward to get the review process started.

Board Member Rotton addressed the SEQR process especially with Board Member DeGironimo's concerns.

At this time, motion was made to grant Preliminary Approval by Board Member Peggy Rotton; seconded by Board Member Bill Morris. Vote taken:

Chairman Elis DeLia – yes	Board Member Peggy Rotton- yes
Board Member Bill Morris – yes	Board Member Julius Fuks, Jr. – yes
Board Member Brymer Humphreys – yes	Board Member Heather Mowat – yes
Board Member Lis DeGironimo – no	

Motion to approve was passed by a vote of 6 – 1.

Motion was made by Board Member Bill Morris to declare the Planning Board Lead Agency under SEQR; seconded by Board Member Brymer Humphreys. All in favor.

Motion was made by Board Member Lis DeGironimo that an independent engineer be hired to be paid by the applicant to review the Site Plan and storm water; seconded by Brymer Humphreys. All in favor.

There being no further business, the meeting adjourned at 7:00 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Planning Board

dbS