

Meeting of the Planning Board of the Town of Lewisboro held at the Town Offices at Orchard Square, 20 Cross River Plaza, Lower Level, Cross River, New York on Tuesday December 11, 2012 at 7:30 P.M.

Present: Jerome Kerner, Chairman  
Ronald Tetelman  
John Gusmano  
Robert Goett  
John O'Donnell  
Jan Johannessen, Kellard Sessions Consulting, Planning/Wetland Consultant  
Lawrence Praga, Esq., Planning Board Counsel  
Margaret Clark, Esq., Special Counsel  
Janet Andersen, CAC Chairwoman  
Aimee Hodges, Planning Board Secretary

The Chairman called the meeting to order at 7:30 and pointed out the emergency exits.

## **I. DECISION**

**Homeland Towers, LLC, and New Cingular Wireless, PCS, LLC (AT&T), applicants (Francis Coyle, Jr., and Ash Tree Development, LLC, owners of record) 117 Waccabuc Road, NYS Route 138, Goldens Bridge -Applications for Special Use Permit Approval and Wetland Activity Permit Approval pertaining to communication facilities pursuant to Sections 220-32 and 220-41.1 of the Lewisboro Zoning Ordinance to construct a 154-foot tower situated within a 3,500 S.F., fenced-enclosed compound area - Cal. #5-12 P.B.**

Manny Vicente was present with Christopher Fisher, Esq. of Cuddy & Feder, LLP.

Mr. Kerner advised that the final resolution has been prepared by staff and reviewed by counsel.

On a motion made by Mr. Tetelman, seconded by Mr. O'Donnell the resolution Special Use Permit Approval, Wetland Activity Permit Approval, Homeland Towers, LLC and New Cingular Wireless, LLC (AT&T), 117 Waccabuc Road, (NYS Route 138), Cal. #5-12 P.B. was adopted.

Vote: In Favor: Tetelman, Gusmano, Kerner, O'Donnell  
Abstain: Goett

## **II. PUBLIC HEARINGS**

**New York SMSA Limited Partnership d/b/a Verizon Wireless, applicant (American Towers, Inc., owner of record) NYS Routes 35 & 123, South Salem -Application for Special Use Permit Approval pertaining to communication facilities pursuant to Section 220-32 and Section 220-41.1 of the Lewisboro Zoning Ordinance to replace three (3) existing antennas and co-locate six (6) additional panel antennas at a maximum height of 138'-3" AGL and additional ancillary equipment on the existing 125 foot tower owned by and accessed over an existing driveway from Route 35. The application includes the previously installed air condensers behind the existing equipment building and an emergency generator – Cal. #6-12 P.B. (Reconvened)**

Michael Sheridan, Esq., of Snyder & Snyder, LLP was present representing the applicants.

There were no members of the public present who asked to be heard.

Mr. Sheridan noted that the planning consultant had indicated that the applicant had responded to all of the previous comments with the exception of the approvals from the Zoning Board of Appeals and ACARC. The applicant has received approvals from both but is still waiting to receive the resolution of approval for the variance requested from the Zoning Board of Appeals.

On a motion made by Mr. O'Donnell, seconded by Mr. Gusmano the public hearing was closed.

Vote: In Favor: Tetelman, Gusmano, Kerner, Goett, O'Donnell

Mr. O'Donnell questioned whether the ZBA attached any conditions to their approval.

Mr. Sheridan advised that the only thing the ZBA mentioned in giving their approval was that if the applicant was to do any further work on the tower that they would not be required to return to the ZBA.

Mr. Johannessen noted that he had not seen the ZBA resolution but condition 4 of this approval requires that if any of the ZBA conditions change the site plan, the site plan must come back to the Planning Board for their review.

On a motion made by Mr. Tetelman, seconded by Mr. O'Donnell, the resolution Special Use Permit, Verizon Wireless, NYS Route 35 and NYS Route 123, Cal. #6-12 P.B. and incorporated Negative SEQR Declaration was adopted.

Vote: In Favor: Tetelman, Gusmano, Kerner, Goett, O'Donnell

At the completion of her services for the evening, Ms. Clark exited the meeting at 7:45 P.M.

**Lewisboro Library Association, 15 Main Street, South Salem – Applications for Special Use Permit Approval and Wetland Activity Permit Approval to construct three, 1-story additions totaling 1,543 s.f., the addition of an outdoor reading patio, the replacement of the existing sidewalks, and the updating of the exterior and interior of the building and landscaping – Cal. #7-12 P.B.**

There were no objections to the time or place of the public hearing and there were no requests to have the notice of public hearing read aloud.

There were no members of public present who wished to speak about the project.

Gary Page, President, Board of Trustees of the Lewisboro Library was present with Dawn McKenzie, RLA of Insite Engineering and architects Renée Purse and Donald Mac Donald.

Ms. McKenzie noted that since the previous appearance they had received comments from the NYCDEP and the Westchester County Department of Health. She advised that there were not any changes to the site plans and the architects presented the proposal to the Town Board and discussed the staging and circulation issues. The plan that they approved is being prepared. The applicant will respond to outstanding comments from the Planning Board and submit them prior to the next meeting. Ms. McKenzie displayed the proposed lighting plan, which she described as similar to what currently exists on the building except they are not wide open floods but nighttime friendly with shields. There are sconces proposed at the entrances and spotlights at the corner of the building to light the walkways.

Mr. Kerner expressed concern with "spot" lights. He questioned whether bollards would be a possibility to light the walks.

Mr. Mac Donald advised that they had looked at utilizing them but it seemed to be tricky to pull them off and expensive. If there are concerns, they will do bollards.

Ms. McKenzie advised that the lighting study was done at seven feet for the sconces and eight feet for the spots.

Mr. Kerner expressed concern with the glare while walking along the path.

Mr. Mac Donald advised that they would utilize the cylinders for the entrances and bollards for the walkways.

Ms. Purse advised that one of the concerns with the bollards is that they believed that they would light up the walkway, but not the people, preventing visual recognition.

There was a brief discussion regarding the request for the waiver of the landscape buffer. Mr. Kerner noted that the front of the property is utilized for a number of purposes and should remain an unobstructed lawn.

Mr. Kerner acknowledged receipt of the December 11, 2012 correspondence just received from Dean Travalino and read it into the record. In looking at the comments cursorily, he noted that it appeared that they did not have any pertinence to this library application.

Ms. McKenzie advised that the library is proposing a certain amount of new impervious surface. As required by the NYCDEP, they need to capture and treat that entire new area. Currently all of the existing roof runoff goes into the storm drain and discharges to the wetland across the street. This proposal will capture in infiltrators some of the existing and all of the new impervious runoff coming off the roof thereby reducing the amount of runoff that is being discharged to the wetland across the street. She approximated that 300 s.f. of the existing runoff would be captured.

Mr. Johannessen advised that the applicant submitted the calculations and drainage analysis; his office agreed that there is a reduction. He added that the applicant has done what they could do with the stormwater on their property, noting that the front lawn area is taken up with the septic system. They have utilized the available areas for the proposed infiltration units. If there was a desire to go beyond

the new impervious surfaces created by this project, perhaps capture some of the existing roof or other impervious surfaces on the Town campus, it could certainly not be done on the library property. The drainage analysis that was referred to in Mr. Travalino's letter was prepared for a significantly larger library project taking the whole Town campus into its scope. He noted that the drainage from the Town campus drains into that culvert, flows past Mr. Travalino's house and affects the wetland behind the Horse & Hound. It's a question as to whether it should be a part of this project or another stormwater retrofit project.

Mr. Johannessen advised that his office did not prepare a new memo for this submission; the majority of their previous comments had been satisfied. Although the NYCDEP and Westchester County Department of Health approvals have not yet been received, Mr. Johannessen did not believe the plan would drastically change because of their comments.

Ms. Andersen advised that the CAC did not have any additional comments.

On a motion made by Mr. O'Donnell, seconded by Mr. Goett, the public hearing was closed.

Vote: In Favor: Tetelman, Gusmano, Kerner, Goett, O'Donnell

The applicant was asked to submit revised plans addressing the last comment from Kellard Sessions. If received in a timely manner, a decision will be prepared for the January 8, 2013 agenda.

### III SKETCH PLAN REVIEW

**Paul Abbott Mount Holly, LLC, 385 Mount Holly Road, Katonah – Application for Wetland Activity Permit Approval to construct a single-family residence and associated amenities including a driveway, well, septic system, pool, and stormwater treatment facilities – Cal. #19-11 W.P.**

Alan Pilch, PE, RLA, of Evans Associates was present representing the applicant. (Patricia Freeman entered the meeting at 9:25)

Mr. Pilch displayed an aerial of the site with an overlay of the proposed development. He advised that the applicant was last before the Board 1 ½ years ago when they first started this project to construct a four bedroom single-family dwelling and swimming pool on this 5.29 acre parcel. At that time they were advised that a 280A frontage variance was required from the Zoning Board of Appeals because the property would be accessed via an easement over an adjacent parcel. A variance was granted May 5, 2012. He reviewed the environmental features of the site and advised that the pond is variable in size. He noted the wetland areas and meadow. The pond appears to have been created as a farm pond noting that it was not visible in the Westchester County GIS aerials taken in 1947, 1960 or 1976. The pond drains by a 12 inch pipe to the west side of Mount Holly Road. The driveway is proposed to be gravel along the wetland area and paved as it rises to the house itself. In an effort to be as green as possible they have proposed swales and utilized surface features for stormwater management. The main pond will take the treated runoff from the bioretention facilities. An additional grass swale along the driveway will pick up the runoff and direct it to a level spreader and will serve to attenuate the rate

of runoff from the development of the house. He reviewed the proposed mitigation to offset the impacts of the development.

Mr. Johannessen reviewed the December 7, 2012 Kellard Sessions memo to the Board and noted that the mitigation ratio falls short of the Town's 1:1 standard. His memo included some recommendations that the applicant may wish to consider to bring this ratio up. He noted that stormwater improvements are not considered mitigation. Originally they had looked at getting the septic system outside of the wetland buffer. The applicant had done some soil testing, witnessed by both his office and the Health Department and there was mottling within three feet of the ground surface. Based on the soils, the alternative area previously discussed is not acceptable for the septic. He noted that the Board walked the site in the Fall of 2011.

Mr. Kerner advised that he would like a more accurate description of the soil. He noted that there is a pool equipment pad and advised that any type of propane storage should be noted. If there is any intent for a generator he asked that this be indicated on the plan.

Mr. O'Donnell questioned what the traveled way was along the northern property line.

Mr. Johannessen believed that it was probably a farm road.

Mr. Pilch advised that this typically meant an historic driveway. It is not in the control or ownership of the applicant but he will find out where it goes.

Ms. Andersen reviewed the December 7, 2012 CAC memo to the Board.

Ms. Freeman entered the meeting.

Mr. O'Donnell noted his concerns as to what would be stored in the barn.

It was agreed that the applicant's consultants would have a technical meeting with the Town's consultants.

#### **IV. REQUEST FOR EXTENSION OF TIME**

**Smith Ridge Housing, LLC, 202 Oakridge Commons, South Salem, New York – Cal. #6-02 P.B. - Site Development Plan Approval, Wetland Activity Permit Approval & Stormwater Permit Approval to construct a 46 unit condominium complex known as "Oakridge Gardens aka Laurel Ridge"**

Philip Pine was present.

Mr. Pine advised that he had submitted all of the required documents and they are in the process of being reviewed. The plans had been reviewed by Mr. Agresta.

On a motion made by Mr. Tetelman, seconded by Mr. Goett, the Board granted the November 29, 2012 request of Philip Pine for a 90-day extension of time to the resolution granting Site Development

Plan Approval, Stormwater Permit Approval and Wetland Activity Permit Approval dated June 12, 2012 and as last amended September 24, 2012.

Vote: In Favor: Tetelman, Gusmano, Kerner, Goett, O'Donnell

## V. DISCUSSION

- **Amendments to Section 7-3 B Architecture and Community Appearance Review Council**
- **Amendments to Chapter 217 Wetlands & Watercourse Regulations**
- **Amendments to Chapter 220 Zoning Ordinance**
- **Amendments to Chapter 195 Subdivision Regulations**

Mr. Kerner noted that the Section 7-3B is the section that discusses the referral process to ACARC.

Mr. O'Donnell advised that this statute regulates the practice of another Board. He noted that the Planning Board had discussions with ACARC who approved of the concept but that there are other Boards that submit to ACARC, i.e. Town Board and ZBA. Out of courtesy to those Boards, the Planning Board should not make any recommendations to this statute.

Mr. Kerner agreed, but the intent of the recommended change is to clarify to applicants the responsibility of the Planning Board and the further responsibility of the applicants with regard to referrals. This modification will in no way change how ACARC conducts their business. He noted that he had an exchange with the Chairwoman of ACARC who endorsed these modifications.

Mr. O'Donnell believed that the modifications that the Board had suggested to Ms. Clark had been made, which included the striking of a requirement that the Planning Board send anything to the ACARC and the need for the applicant to submit an application and fee. He reiterated that he was of the opinion that ACARC make the recommendations.

The Board agreed to send the request for modification to this section of the code to the Town Board.

The Board had previously discussed proposed changes to the wetland regulations regarding an adjustment for special circumstances. Mr. Praga suggested that this be inserted within Section 217-13 within a new subsection E.

The Board agreed to send this recommendation to the Town Board for their consideration.

At the request of the Board, Mr. Praga advised that he had reviewed the requirements in other municipalities with respect to notice requirements in advance of a public hearing for all of the Board's different procedures, subdivision, site plan and wetland applications. He prepared a draft for the Board's consideration.

Currently the code notification requirements are five days for subdivision, site plans and special use permits and 15 days for wetland applications. The Board agreed to suggest an amendment requiring

that the legal notice be published in the official newspaper five days prior to the public hearing. Mr. Praga suggested that the Board consider notifying the neighboring property owners 10 days prior to the public hearing for all applications in an effort to keep them consistent. Mr. O'Donnell believed that 30 days would be more acceptable in an effort to give the neighboring property owners sufficient time to be notified. Mr. Gusmano believed that the Board should have some flexibility when scheduling the public hearings and suggested that 5-10 days is sufficient. The remaining members agreed that 15 days is sufficient.

The Board agreed to the following notification distances:

- Two and Four Acre Zoning Districts – 500 feet
- ¼, ½ and 1 Acre Zoning Districts – 250 feet
- Business and Non-Residential Zoning Districts – 250 feet

The Board discussed the requirement that a sign be posted on the subject property and determined that the Town should provide the pre-printed signs.

**VI. CORRESPONDENCE & GENERAL BUSINESS**

Mr. Kerner advised that the Town Board had specified that the webinars were an acceptable form to complete the required education requirements. A total of four hours are required.

**Farrell, 189 Mead Street**

The Board acknowledged the September 30, 2012 request of Clotilde Farrell to modify the annual requirement to pump out her septic system and agreed that given the circumstances and the information provided in the septic system data form dated August 28, 2012 that pumping the septic system every two years in this instance was acceptable.

**Eager Beaver**

The Board indicated that they had no objection to the proposed settlement but noted that ultimately it was the responsibility of the Town Board to accept or not accept a settlement agreement. Mr. Praga will contact the Town's counsel and advise him of same.

**VII. MINUTES OF November 27, 2012**

On a motion made by Mr. Goett, seconded by Mr. Tetelman, the minutes of November 27, 2012 were adopted.

In Favor: Tetelman, Gusmano, Kerner, Goett, O'Donnell

On a motion made by Mr. Gusmano, seconded by Mr. Tetelman, the meeting was adjourned at 9:36 P.M.

Respectfully submitted,

Aimee M. Hodges  
Planning Board Secretary