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VILLAGE OF WOODBURY

**VILLAGE OF WOODBURY  
PLANNING BOARD MEETING**

**SEPTEMBER 4, 2013**

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**VILLAGE OF WOODBURY  
PLANNING BOARD MEETING**

**SEPTEMBER 4, 2013**

PRESENT:	M. Hunter, Chairperson	D. Lindsay
	C. Scibelli	J. Echevarria
	R. Cataggio	G. Lahey
ABSENT:	R. Anzalone	S. Turner
	C. Correia	

Chairperson Hunter opened the meeting with the Pledge of Allegiance and a moment of silence for our Armed Forces and all others in harm's way throughout the world. She then introduced the Board members and Consultants.

**MINUTES**

R. Cataggio made a motion to accept the minutes from August 7, 2013 as submitted.  
C. Scibelli seconded the motion. The vote was as follows:

M. Hunter – In Favor  
R. Anzalone – Absent  
C. Correia – Absent  
C. Scibelli – In Favor  
R. Cataggio – In Favor

**REGULAR AGENDA**

**AT & T NEW CINGULAR/MAHER LANE - TAX MAP 225-1-10.421**

Chairperson Hunter explained that this was to be a review of a resolution for proposed replacement of 2 panel antennas on an existing monopole, related equipment shelter and various equipment modifications within an existing fenced compound. The property is located at 101 Maher Lane in Harriman. She then noted that the applicant submitted additional paperwork on August 30<sup>th</sup>, and asked John Furst to give the Board an overview of what was happening.

Mr. Furst explained that he was an attorney representing AT & T New Cingular wireless. He said that there were some additional comments from the Board's wireless consultant, and they had made some slight revisions on the plans in response to these comments. He further explained, as was discussed at the last meeting, that they are actually removing three antennas as well as swapping out two of the existing antennas. There are a total of 12 antennas there now. Three will come down. He said this way the proposal will match the structural analysis.

**AT & T NEW CINGULAR/MAHER LANE - TAX MAP 225-1-10-421 (cont.)**

Mr. Furst further noted that the structural analysis included some additional cables and an additional piece of equipment that was contemplated on the tower. These two items will not be included as part of this proposal. He added that they had also addressed some inconsistencies that were noted by the Board's wireless consultant. He was looking for a conditional approval this evening.

Chairperson Hunter asked D. Lindsay for his comments. He said that he had not had time to review the latest set of plans, and suggested that, if the Board takes action, any action should be based on the previous plans and include conditions that should be satisfied so a building permit can be issued. Mr. Furst agreed with D. Lindsay.

At this time Chairperson Hunter asked G. Lahey for his comments. She cited a report that was received from Tectonic dated September 3<sup>rd</sup>. G. Lahey said that the applicant still needs to submit a revised structural analysis with a basic wind speed of 75 miles per hour instead of 70 miles per hour. He also noted that there were some inconsistencies on the plans with model numbers that did not match up. Also, there are 12 antennas now. He wanted to confirm that when this is done there will be 9 antennas. Mr. Furst said that this was correct.

With regard to the structural analysis, G. Lahey noted that the structural that was done at 70 miles per hour is at 99.8 percent capacity. He said that at 75 miles per hour the capacity may be over 100 percent. He was not sure if this would require reinforcement of the monopole. He said the applicant could look at redesigning once again to reduce the load on the structure. He added that he had discussed this with the applicant.

A discussion ensued regarding the 75 mile per hour wind speed and the fact that the applicant, once again, felt that there was no basis for this in the New York State building code. He suggested that the resolution not state "75 miles an hour" and simply say "comply with the building code". He suggested that G. Lahey discuss this with their wireless consultant. G. Lahey said he has had conversations with their wireless consultant, and that his position is not going to change with regard to the 75 mile per hour wind speed.

The discussion continued. Chairperson Hunter asked J. Echevarria for some guidance. J. Echevarria said that there is obviously a disagreement between the applicant's consultant and the Village's consultant. However, the Village's consultant has recommended 75 miles per hour. She said the Board would need to make its own determination of what it is going to require. J. Echevarria also said that, because there are so many outstanding issues, D. Lindsay had suggested a condition that all requirements of the Board's telecommunication consultant as outlined in their report, as well as any other reasonable requirements of the consultant are to be completed to the consultant's satisfaction prior to the issuance of a building permit.

**AT & T NEW CINGULAR/MAHER LANE - TAX MAP 225-1-10.421 (cont.)**

Chairperson Hunter then asked the Board members for their questions and concerns.

R. Cataggio wanted to be sure that the applicant is complying with the latest code. After some discussion it was decided that the condition would be that the applicant use the most current applicable code standards. J. Echevarria noted that the consultant specifically mentioned the 75 mile per hour wind speed. She felt this condition limits the wireless consultant's discretion in this matter. After some further discussion, G. Lahey recommended that J. Kirby be allowed to review this.

The discussion continued. Chairperson Hunter wanted to be sure that the Planning Board was doing the right thing in granting a conditional approval, as she said that this is the third application for this tower and a structural report was just submitted from something that was approved over a year ago. She wondered whether the monopole would be able to handle the equipment from all three carriers. J. Echevarria cited condition number 11 which says the structural analysis report takes into account other "approved" carriers, not "installed" carriers. This means the structural analysis that was submitted should already include the Sprint equipment that was approved a year ago.

R. Cataggio noted that the consultants will be discussing the wind speed issue. If they can't come to an agreement, he asked if this would return to the Planning Board. J. Echevarria explained that if they can't agree then they won't get their final plans signed, and won't be able to get a building permit. R. Cataggio was fine with this.

At this point Chairperson Hunter read the Resolution of Approval. After her review, Mr. Furst noted, for the record, that he had submitted a letter objecting to some of the conditions in the resolution. He said he would like the Board to consider some language, striking out the specific 75 mile per hour requirement, including language that simply says "as required by current New York State Building Code". He also did not think the RF design narrative applies any more as he felt that any discrepancy will be resolved by the removal of antennas. He suggested putting "if necessary" in this paragraph. J. Echevarria explained that this is what happens when applicants revise and update plans that the consultants haven't had a chance to review. Conditions become inoperable, but are kept in. If, at the signing of the plans, they are not applicable anymore, they are not required.

After some further discussion, R. Cataggio made a motion to approve the resolution. C. Scibelli seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- R. Anzalone – Absent
- C. Correia – Absent
- C. Scibelli – In Favor
- R. Cataggio – In Favor

## **AT & T NEW CINGULAR/ARDEN - TAX MAP 233-1-6**

Chairperson Hunter read the Notice of Public Hearing for a proposed extension of an existing tower by 15', and the collocation of 12 antennas on the tower with an associated equipment shelter. The property is located on Arden House Road. She then noted, for the record, that the Orange County Department of Planning responded in a letter dated August 19<sup>th</sup> and received August 28<sup>th</sup> that this is a matter for local determination. She then turned the floor over to the applicant.

John Furst appeared as the attorney for the applicant and explained that AT & T will be extending an existing tower, which is located at the end of Arden House Road at the top of the mountain. It is an 80.5' tower as it currently exists. Their whip antennas extend another ten to twelve feet. Currently the tower hosts Nextel Communications as well as Entergy Communications. There are also two other towers located at this site. Mr. Furst said it is in a secluded location at the top of the hill, surrounded by trees on two or three sides. It is also at the top of a bluff which overlooks Route 6 and Woodbury Commons. It is a lattice tower which will be extended by 15' with 12 antennas being located at approximately 89' for the center line height. The tower structure itself will be 95.5 feet. The top of the whip antennas would reach about 116'.

In addition to the 12 antennas there will be a 12' x 28' equipment shelter. It will have a stone aggregate finish on the outside. It is used to house the equipment that runs the antennas. There is a cable tray that goes from the shelter to the tower, and the cables go up the leg of the lattice tower.

Mr. Furst said the coverage they are seeking is along the New York State Thruway, Route 32 and Route 6 heading towards West Point. Mr. Furst said the code prefers the shared use of existing structures and that is what they are proposing here. He added that there is no visual variation from this extension so there will not be much impact, if any, on visual esthetics. He added that he had a radio frequency engineer with him tonight who could discuss the coverage if the Board desires. Also, a civil engineer in case there are any site planning or engineering questions.

At this point Chairperson Hunter asked D. Lindsay for his comments. He said that he had filed a report with the Board in connection with the original plans that were received and reviewed. He said the project advanced to the point, with the wireless consultant's comments, that this public hearing could be scheduled. D. Lindsay said the applicant submitted additional plans, which just came in on August 27<sup>th</sup>, so he did not review those. However, he said he took a quick look at them and the applicant did try to address some of the comments that he had.

**AT & T NEW CINGULAR/ARDEN – TAX MAP 233-1-6 (cont.)**

D. Lindsay also reminded the Board that he had noted to them earlier that there is a definition in the code of the height. He said the 15' extension which makes the tower 95.5 feet does not meet the definition of the code because the code measures the height to the top of the highest antenna. However, he said the applicant would be in compliance.

D. Lindsay said he spoke to G. Thomasberger regarding access and there was no concern. However, he did recommend that the Board refer this to the ESO's for their comments.

Chairperson Hunter then asked G. Lahey for his comments. He said he did not receive a copy of the latest plans so he had not had an opportunity to review them. He said the latest memo from J. Kirby was dated July 8<sup>th</sup>. He also noted that the applicant put together a structural analysis using a wind speed of 70 miles an hour. He said that, because of the location of the site at the top of a mountain, a revised structural analysis should be submitted using a wind speed of 90 miles an hour with applicable topographical factors.

At this point J. Echevarria said that the Board would need to make a declaration of significance under SEQRA prior to opening the public hearing. She and D. Lindsay both recommended a Negative Declaration. After some discussion, Chairperson Hunter made a motion for a Negative Declaration of Significance under SEQRA. R Cataggio seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- R. Anzalone – Absent
- C. Correia – Absent
- C. Scibelli – In Favor
- R. Cataggio – In Favor

Chairperson Hunter then opened the floor for questions and comments from the public. There being none, C. Scibelli made a motion to close the public hearing. Chairperson Hunter seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- R. Anzalone – Absent
- C. Correia – Absent
- C. Scibelli – In Favor
- R. Cataggio – In Favor

**AT & T NEW CINGULAR/ARDEN - TAX MAP 233-1-6 (cont.)**

Chairperson Hunter then asked the Board members for their comments and questions.

R. Cataggio noted that there is a different required wind speed for this structure. He wanted to know what the difference was between this tower and the previous application. G. Lahey cited section 15.4 of the current standard TIA-222G which requires that any existing structure must be analyzed using the current standard if there is a significant change to the number of appurtenances or there is a structural modification other than maintenance. Therefore, based on the proposed quantity of antennas and other items and the increase in overall height, the use of TIA/EIA-222F standard is not permitted. G. Lahey said that because of the 15' extension, the installation of 12 antennas and the fact that it is at the top of a hill triggers the need to analyze the structure under TIA 222G. That is the difference between this and the other monopole. Chairperson Hunter also pointed out that the other application is a monopole, where this one is a lattice tower.

At this point Chairperson Hunter asked the Board if they would like to postpone the review of the resolution until the next meeting on September 18<sup>th</sup>. After a lengthy discussion, it was decided to review the resolution. After the review of the resolution, J. Echevarria added a condition similar to the condition in the previous resolution regarding the satisfaction of the wireless consultant's requirements as outlined in his report, and any other reasonable requirements prior to building permit. Mr. Furst then, again, expressed his objections to the conditions. He said that in condition number 4, AT & T will be responsible for its own equipment. In condition number 6 regarding the interference with the Village's emergency services equipment, he said that is pre-empted by the FCC. He also felt that condition number 8 was pre-empted by the Middle Class Tax Relief Act. For condition number 12 he made a suggestion with respect to the inspection that it be prior to issuance of a CO rather than prior to the signing of the plans. J. Echevarria explained that usually you don't want new antennas installed on a structure that's not safe. That was the reason for this requirement. With regard to the other objections, she said that Mr. Furst had discussed these with R. Golden and all the conditions are to the extent allowable by Federal law. She pointed out that condition number four had added language which states, "to the greatest extent allowable by law". Condition number six was similar with language stating "consistent with Federal law". With regard to condition number 8, J. Echevarria said the law has not actually changed yet, so Planning Board review is still necessary.

After some further discussion C. Scibelli made a motion to approve the resolution with the changes made this evening. R. Cataggio seconded the motion. The vote was as follows:

M. Hunter – In Favor  
R. Anzalone – Absent  
C. Correia – Absent  
C. Scibelli – In Favor  
R. Cataggio – In Favor

**WOODBURY JUNCTION/WP3 LLC - TAX MAP 225-1-3.22 et al**

Chairperson Hunter explained that this was to be a review and discussion of a revised subdivision site plan for proposed relocation of sewer lines through Julien Court. The property is located off Dunderberg Road in Central Valley. She further explained that on June 19<sup>th</sup> the applicant was before the Board to do a sanitary sewer line, and switching of two ponds. The applicant has now changed their application and is only looking to install the sanitary sewer line at this time. She then asked the applicant to state his name and explain his proposal.

Jason Pitingaro of KC Engineers appeared on behalf of the applicant. He said that, as stated, they have amended their application to only include the revision of the sewer. He added that, if they decide not to go ahead with the gravity sewer, they will have to begin construction of the pump station. He felt this was more important than the ponds at this time. Also, Pond 7 will be built no matter what. Pond 6 is not needed at this point because there won't be any houses in this area for some time. They feel that this will simplify their application, and get the sewer installed.

Mr. Pitingaro explained that one of the changes was in response to the Town Board in acquiring a small easement for the sewer. He said they felt it was going to be a more lengthy process to deal with both Boards at once, and that the Town Board was not going to grant the easement very quickly. They revised the sewer line to run entirely within their property with the lots still owned by the developer in the vicinity of Pond 6. Then it crosses over to a single resident in the Julien Court subdivision. From there it goes down through the Julien Court right-of-way, which is still owned by a single entity, and the County right-of-way on Nininger Road where it was previously proposed.

Mr. Pitingaro also said they have modified the grade on Road B, which is an approved road. They've raised the grade to make it gravity from this location. He then showed the Board the sewer line on the map. He also said that the two property owners in question have submitted their consent to the applicant. He cited the technical comments from D. Lindsay and said that they mostly had to do with the constructability of the sewer itself, and the care that will be required to construct the sewer in this fashion and also with future access. He said they feel they can address of these issues.

Chairperson Hunter then noted, for the record, that on August 23<sup>rd</sup> the revised plans were submitted to the Orange County Department of Planning and the Orange County DPW. Today a response was received from the Orange County Department of Planning noting local determination. There has been no response from the DPW. Mr. Pitingaro said they have discussed this with the DPW, who suggested some improvements that they agreed to.



**WOODBURY JUNCTION/WP3 LLC - TAX MAP 225-1-3.22 et al (cont.)**

Chairperson Hunter then asked D. Lindsay for his comments. D. Lindsay said there were some bullet points in his memo that he would like to discuss. One of them was that they agree, in concept, with the applicant that a gravity sewer is better than a pump station. He said he did not have copies of the endorsements from the property owners, so he only did a partial review because he did not want to waste a lot of time if this was not going to proceed. If they did not get endorsements they would not be able to proceed.

D. Lindsay also wanted to discuss the construction of the sewer. He said it is hilly terrain and they have to have a deep cut in one section of about 25'. In another section there is a gorge that they have to fill in which is also about 25'. He said to dig down that deep they have to be sure it is safe for the workers. This is a problem the applicant will have to address. He was not sure if there would be more investigation needed on the soils in this area. He also said the sewer is being laid on a flat slope of .4 feet per thousand, which is a minimum slope permitted by State standards.

D. Lindsay noted some changes that would occur to Road B which will change the profile of the area dramatically. He said there should be a full topographic map of this entire area. He also recommended to the Board that if they approve this they need fully developed plans so that they can see what they are approving before they take any action. In closing he said that he would like to see this work because it would be better than a pump station.

Chairperson Hunter then asked J. Echevarria for her comments. J. Echevarria said that the Board could reaffirm its prior SEQRA if they find that the current proposal would have the same or less significantly adverse environmental impacts as the proposal that was part of the original site plan and special permit approval for the subdivision. When they feel the application is complete, the Board can schedule a public hearing for this application. She added that usually before a public hearing the Board would have both owner authorizations. She said her office had not seen them yet. She also was not sure who the owner was on Julien Court. Mr. Pitingaro said that the ownership on Julien Court was retained by the original developer which was the Cornell family. He added that the authorizations were from the Cornell family and Rosner.

C. Scibelli asked if the access on Nininger Road would be changed in any way. Mr. Pitingaro said that the access would not change. The only change is that if the sewer is constructed as proposed, the pump station in this location will no longer be necessary. D. Lindsay said the footprint of the road and the lots will not change, but the elevation of one section of the road will change so that it will be more or less straight across instead of having a dip in it.

**WOODBURY JUNCTION/WP3 LLC - TAX MAP 225-1-3.22 et al (cont.)**

There was some discussion regarding the walls that will be constructed near the sewers. D. Lindsay felt that the sewer lines could be moved further into the lots away from the walls. R. Cataggio asked about the walls and if they were the responsibility of the HOA. Mr. Pitingaro said there are many walls throughout the subdivision that are HOA property. He added that the walls that will be built in connection with the sewer lines are only 4' high. Also, the Village would be responsible for the sewer. R. Cataggio was concerned about the sewer line causing a break in one of the stone walls. Mr. Pitingaro said these are gravity sewers, so there is no pressure involved with them.

After some further discussion Chairperson Hunter made a motion to reaffirm the prior SEQRA that was done for this application. C. Scibelli seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- R. Anzalone – Absent
- C. Correia – Absent
- C. Scibelli – In Favor
- R. Cataggio – In Favor

Mr. Pitingaro said they will resubmit a plan. D. Lindsay will check on the endorsements.

**WIRELESS TELECOMMUNICATIONS CONSULTANT**

Chairperson Hunter explained that Tectonic is phasing out of municipal representation, so the Board will need to hire a new telecommunications specialist. She said that R. Golden's office is reaching out to applicants that had previously expressed an interest in this position to see if they are still interested. She wanted the Board to be up to date on this issue.

There was no further business for the Board to discuss, so Chairperson Hunter made a motion to adjourn. C. Scibelli seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- R. Anzalone – Absent
- C. Correia – Absent
- C. Scibelli – In Favor
- R. Cataggio – In Favor

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

  
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Gale A. Naugle, Planning Board Secretary