

MINUTES OF THE FEBRUARY 10, 2011 MEETING OF THE TOWN BOARD OF
THE TOWN OF POUND RIDGE HELD AT CONANT HALL, 257 WESTCHESTER
AVENUE, POUND RIDGE, N.Y., COMMENCING AT 7:00 P.M.

PRESENT: SUPERVISOR GARY WARSHAUER; COUNCIL MEMBERS:
DANIEL PASCHKES, RICHARD LYMAN, PETER FALCO AND
PAUL McCONVILLE
PLANNING BOARD MEMBERS

ALSO PRESENT: TOWN ATTORNEY, JAMES J. SULLIVAN, ESQ.
TOWN CLERK, JOANNE PACE
DEPUTY SUPERVISOR, JONATHAN POWERS

CALL TO ORDER: Supervisor Warshauer called the meeting to order at 7:00 p.m.

PUBLIC HEARING:

- **Continuation of the Joint Town Board/Planning Board Public Hearing on the T-Mobile Application for a Cell Tower at the Ambulance Corps property in Scotts Corners**
- **Board Action:** Motion by Councilman Lyman, seconded by Councilman McConville, Councilman Paschkes recusing himself, all voting aye to open the Public Hearing for the Continuation of the Joint Town Board/Planning Board Public Hearing on the T-Mobile Application for a Cell Tower at the Ambulance Corps property in Scotts Corners.

At the last Public Hearing meeting, the Town Board gave direction to the Planning Board to consider the specifics of the site plan application for the Ambulance Corps property and make their recommendation prior to this meeting. The Planning Board submitted a recommendation letter to the Town Board that they will discuss tonight.

Robert Gaudio, with the Law Offices of Snyder & Snyder and Council for the applicant T-Mobile, said that on 1/25/11, they submitted visual renderings showing the pole with various options. On February 8, 2011, they submitted additional visual renderings depicting the facility as: 1) a monopole with t-arms, 2) a monopole with cluster mounts, 3) a concealment pole; and 4) a flagpole. Today, Mr. Gaudio gave the Town Board a memo dated February 10, 2011, enclosing a revised site plan pursuant to the comments of the Planning Board at its meeting on January 27, 2011. It shows a different wetland buffer line and various pole elevations and the size and location of the antennas. He mentioned that T-Mobile will be at the 120' mark and AT&T will be at the 110' mark. The facility has also been rendered as a 120' brown concealment pole with six municipal service antennas extending to 130' above ground level. The concealment pole would allow acceptable heights at 90' and 100' for co-locations. He went on to explain the different mounting options. There are t-arm mounts and cluster mounts. The applicant prefers a "Sabre" treepole with branches extending down the body or monopole design for more flexibility. The horizontally mounted antennas give more flexibility.

The Planning Board members find the height of the poles to be the most visually obtrusive. They repeatedly asked if the poles could be lowered and still accommodate

MINUTES OF THE MEETING OF THE TOWN BOARD
TOWN OF POUND RIDGE
POUND RIDGE, NY
February 10, 2011

the cell services. Mr. Gaudioso repeatedly said that T-Mobile would be at 120' and AT&T would be at 110' and not accept a lower height on the monopole or the concealment pole. Mr. Anthony Morando, Cuddy & Feder, spoke on behalf of AT&T, confirming that AT & T must be at 110'. When asked about the requirements for other carriers, both Mr. Gaudioso and Mr. Morando said they could not comment on other carriers.

Mr. Thomas Ferrara, one of the owners of 38 Westchester Avenue, Pound Ridge, N.Y., asked that the Town Board consider his property as an alternative. Mr. Gaudioso said that T-Mobile evaluated that property in March 2009 and they believe that property is not a less intrusive or a feasible location. The rear of the property is encumbered with wetlands and the front of the property is developed with a building, parking areas and septic system.

Discussion continued with the emphasis being on making the best of the cell tower location at the Ambulance Corps site.

Santo Borsellino, Rolling Meadow Lane, asked that the Boards take into consideration the line of site. He believes that 38 Westchester Avenue would be a better alternate site.

Peter Avellino, Pine Drive, gave the Town Board a petition signed by 125 residents who are against the Ambulance Corps site for the cell tower. He also pleaded with the Town Board to reconsider 38 Westchester Avenue as a potential site.

Robert Gaudioso reiterated the fact that 38 Westchester Avenue was evaluated and it is not a feasible site. The Ambulance Corps site is actually on the preferred location list with the Town of Pound Ridge.

John Bria, Planning Board member, asked if it would be possible to put two lower towers in Scotts Corners instead of one taller one. Mr. Gaudioso said they would need to be 75' apart and we would still need 120' to have the service.

Richard Mendes, Peters Lane, asked for clarification of the FCC mandate. He says that we need to allow adequate cell coverage, but does it mean each carrier needs to have 100% cell coverage in Town? What defines adequate coverage? Counsel Sullivan said that the FCC requires adequate coverage and capacity. These are not simply defined terms, but they do not require coverage of the entire Town. The law does however require that there be a level playing field for all of the licensed carriers. You cannot favor one carrier over another.

Peter Clough, Westchester Avenue, asked that the audience each go out and take a picture from the four corners in Scotts Corners to try to get a clear shot of the proposed cell tower at the Ambulance Corps. He said that you cannot get a clear shot because of the

MINUTES OF THE MEETING OF THE TOWN BOARD
TOWN OF POUND RIDGE
POUND RIDGE, NY
February 10, 2011

trees and the buildings. He feels enough time has been spent on this issue and feels we have to make a decision and move on.

Supervisor Warshauer asked the Ambulance Corps members in the audience if they had any comments, concerns or recommendations on the proposed cell tower configuration or site plan since it will be impacting their property. Marty Kremer, Ambulance Corps member, said they like what they see and have no objections. They would prefer a monopole because it is most efficient and less visible, but it is up to the Town Board to decide.

John Nathan, Upper Shad Road, once again informed the Town Board that in his opinion, they have the power to reject the Ambulance Corps site because of aesthetic reasons. He also mentioned that the final resolution should absolutely include a clause mandating that the applicant revisit or reopen the Special Use Application in a number of years to be decided as technology changes. He strongly feels that as technology changes, there may not be a need for a tall cell tower. It should then be forced to come down. He also volunteered to right that clause for the resolution.

On another note, he is against the proposed site plan and would like the Town Board to reconsider the DAS system as an alternative. He strongly feels that it will work in Scotts Corners.

Supervisor Warshauer reiterated the need for cell service in Scotts Corners. It has been requested by our residents, business owners, and emergency service providers and is required by Federal Law. There isn't a site in Scotts Corners that will not have a visual impact. The 38 Westchester Avenue site has been evaluated and determined not to be a feasible site. The Ambulance Corps site is the "least worst" solution. The DAS system was looked into as an alternative technology system by the applicant, our Planning Board and our wireless consultant. The conclusion was that it is not a feasible option here because of the topographic conditions. Even if DAS could work, we would then have to install telephone poles, with equipment boxes on them which arguably would be as aesthetically unpleasing as the proposed cell tower. We should remember the efforts of former Town Supervisor Fred Zwick, who had all of the telephone poles in Scotts Corners removed and added the sidewalks, lights and trees. In further consideration of DAS, the Pound Ridge Partnership arranged for a conference call with an expert that they selected, who confirmed that the DAS system works well in malls or in areas that are flat and would not work in areas of dynamic topography.

Clay Fowler, Planning Board Chair, explained that the Planning Board rejects the Ambulance Corps site for the cell tower because of the visual affects. They do, however, feel that we need the cell service in Scotts Corners and without a better site; they have provided their recommendation on the site plan for the cell tower at the Ambulance Corps property. They strongly feel that the pole/tower be as low as minimally practical, and

MINUTES OF THE MEETING OF THE TOWN BOARD
TOWN OF POUND RIDGE
POUND RIDGE, NY
February 10, 2011

certainly not higher than 140'. More upsetting to the eye is the actual array of antennas but the Planning Board would recommend the cluster array of antenna after reviewing the plans further. They would like the array of antennas to be as close to the pole as possible to be less obtrusive. They would also recommend the pole being as thin as possible while maximizing the co-location of carriers. They feel that the conventional cell tower may be the least offensive and they would recommend a paint color of brown/grey to match tree bark. Clay Fowler asked Mr. Gaudioso if T-Mobile will be paying for the emergency services that will be placed at the top of the tower. The Town Board said that this issue will be taken up in the resolution. Clay Fowler mentioned that no permission is given for any tree removal unless the Planning Board approves it as none was requested. There is to be no additional lighting of the facility except for emergency repair purposes. The Planning Board is not giving any waiver for setbacks on that property nor is one to be recommended for inadequate setbacks. They also recommend the Town reserve the right to revisit the Special Permit every five years, with the intent that if new and less obtrusive technology should be developed, then the Applicant would be required to implement it and to remove the tower.

Supervisor Warshauer thanked the Planning Board members for their review and recommendations on the site plan. He asked the applicant to go before the Planning Board on Thursday, February 24, 2011, for the Planning Board to complete their site plan review and to provide their recommendation on the tower design and color prior to the next Town Board meeting, which they do not need to attend. Supervisor Warshauer said that he would like to keep this Public Hearing open and continue it to Thursday, March 3, 2011 and that our Planning Consultant be authorized to work with our Town Attorney and our Wireless Consultant to draft a resolution of approval for consideration at that meeting. He also asked that our OEM committee reconvene to determine their requirements to adequately provide for emergency service as they did for the Adams Lane cell tower, and submit their equipment list prior to our next meeting.

Councilman Falco gave a synopsis of what was covered tonight stating that clearly everyone wants cell service and data service in Scotts Corners. After this period of time, the Ambulance Corps site is the best site for the cell tower. He understands that the Town Board has the power to reject this application for aesthetic reasons, but they won't. He agrees that the major mitigation is the height of the tower and feels this should seriously be addressed. He also agrees that the clause of reopening the permit after five years for technology changes should be part of the resolution. His recommendation is the monopole design.

Councilman McConville said that since November, we laid out a process where, given the three years of work that had been done by the Planning Board, we took the various sites and dwindled down to one site at the Ambulance Corps property. He is hopeful that we can have an acceptable resolution on March 3, 2011. He feels the monopole with

MINUTES OF THE MEETING OF THE TOWN BOARD
TOWN OF POUND RIDGE
POUND RIDGE, NY
February 10, 2011

cluster mounting is the best option and is indifferent on the color. He feels 120' with extendibility makes the only sense if we want only one tower in Scotts Corners.

Councilman Lyman agreed with the other Board members and added that the Ambulance Corps site is the best site and 38 Westchester Avenue is not a viable site. He also feels that whether the tower is 120' or 130' doesn't make a whole lot of difference. He feels the cluster antenna option is the way to go.

RESOLUTION #: 50-11

Board Action: Motion by Councilman Lyman, seconded by Councilman Falco, with Councilman Paschkes recusing himself, all voting aye on the following:

RESOLVED, that the Town Board hereby continues the Public Hearing on the T-Mobile Application for a Cell Tower at the Ambulance Corps property in Scotts Corners to Thursday, March 3, 2011 and that the Planning Consultant be authorized to draft the approval resolution for consideration at that meeting.

Councilman Paschkes joined the Town Board for the remainder of the meeting.

MINUTES: Acknowledge/correct/accept minutes of Town Board Meetings on January 13, 2011, Work Session held on January 26, 2011, Executive Session held on January 26, 2011 and the Town Board Meeting held on February 3, 2011.

RESOLUTION #: 51-11

Board Action: Motion by Councilman Lyman, seconded by Councilman Paschkes, all voting aye on the following:

RESOLVED, that the Town Board hereby acknowledge/correct/accept minutes of Town Board Meetings on January 13, 2011, Work Session held on January 26, 2011, Executive Session held on January 26, 2011 and the Town Board Meeting held on February 3, 2011.

FINANCIAL MATTERS:

Pay Bills

RESOLUTION #: 52-11

Board Action: Motion by Councilman Paschkes, seconded by Councilman McConville, motion carried 4-0 with Councilman Falco abstaining on the following:

MINUTES OF THE MEETING OF THE TOWN BOARD
TOWN OF POUND RIDGE
POUND RIDGE, NY
February 10, 2011

WHEREAS, Councilman Falco has audited claims for payment and has reported that same could be paid, Now, Therefore, Be It

RESOLVED, that the Supervisor be and is hereby authorized to pay the following claims for payment provided there are sufficient funds in the account to which a claim may be charged:

GENERAL FUND	G		\$102551.83
HIGHWAY FUND	D		\$52894.05
PARKING DISTRICT	ST		\$503.15
TRUST AND AGENCY	T		\$42,321.26
CAPITAL	H		\$

Receipt of monthly Departmental reports

The monthly reports have been received for January 2011 and are available in the Town Clerk's office.

ADJOURNMENT: There being no further business to come before the Board, Supervisor Warshauer adjourned the regular meeting at 10:20 p.m.

Joanne Pace
Dated at Pound Ridge, New York
February 11, 2011