

John Currie, *Chairman*
Jan Corning
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
Dennis McNamara
Bruce Prince

PLANNING BOARD

Town of Somers

WESTCHESTER COUNTY, N.Y.

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SOMERS PLANNING BOARD MINUTES
JANUARY 9, 2019
7:30PM

ROLL:

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PLANNING BOARD Chairman Currie, Ms. Corning, Ms. Gannon,
MEMBERS PRESENT: Ms. Gerbino, Mr. Goldenberg, Mr. McNamara and
Mr. Prince

ALSO PRESENT: Director of Planning Syrette Dym
Consulting Town Engineer Joseph Barbagallo
Town Attorney, Joseph Eriole
Planning Board Secretary, Barbara J. Sherry

The meeting commenced at 7:30pm. Planning Board Secretary Barbara J. Sherry called the roll and noted that the required quorum of four members was present in order to conduct the business of the Board.

Chairman Currie asked if there were any comments on the November 14, 2018 minutes; there were none.

On a motion by Chairman Currie, seconded by Mr. Goldenberg and unanimously carried, the minutes of November 14, 2018 were approved.

Chairman Currie asked if there were any comments on the November 29, 2018 minutes; there were none.

On a motion by Chairman Currie, seconded by Mr. McNamara and unanimously carried, the minutes of November 29, 2018 were approved.

40 **TIME EXTENSION:**

41

42 **McKENNA FINAL SUBDIVISION APPROVAL: TM 37.15-1-22**

43

44 Chairman Currie stated this is a request for a second 90-day time extension of the
45 Conditional Final Subdivision Approval, Stormwater Management and Erosion
46 and Sediment Control Permit, Steep Slopes and Tree Preservation as per
47 Resolution 2018-03, from December 10, 2018 up to and including March 9, 2019,
48 pursuant to Town Law Section 276 (c) and Town Code Section 50-13M. The
49 property is located at 2652 NYS Route 35 and is located in an R-80 Zoning
50 District.

51

52 Chairman Currie stated the Board is in receipt of two (2) memos: one from Insite
53 Engineering and the second from Syrette Dym Director of Planning.

54

55 On a motion by Chairman Currie, seconded by Mr. Goldenberg and unanimously
56 carried, the Board moved to approve the second 90-day time extension of the
57 Conditional Final Subdivision Approval, Stormwater Management and Erosion
58 and Sediment Control Permit, Steep Slopes and Tree Preservation as per
59 Resolution 2018-03, from December 10, 2018 up to and including March 9, 2019,
60 pursuant to Town Law Section 276 (c) and Town Code Section 50-13M. The
61 property is located at 2652 NYS Route 35 and is in an R-80 Zoning District.

62

63 **GRANITE POINTE RE-GRANT: TM: 27.05-1-2&5**

64

65 Chairman Currie stated this is a request for the 6th – 90 day time extension for the
66 Granite Pointe Subdivision Re-Grant of Final Subdivision Approval, Wetland,
67 Steep Slopes, Tree Preservation and Stormwater Management and Erosion and
68 Sediment Control Permits, as per Resolution 2017-10, from February 2, 2019 up to
69 and including May 2, 2019, pursuant to Town Law Section 276 (7) (c) and Town
70 Code Section 50-13M. The Property is located on the east side of Route 118/202,
71 adjacent to the Amawalk Reservoir and is located in an R-40 Zoning District for
72 the development of 23 lots in a Cluster Subdivision.

73

74 Chairman Currie stated the Board is in receipt of two (2) memos: one from Bibbo
75 Assoc. and the second from Syrette Dym, Director of Planning.

76

77 On a motion by Chairman Currie, seconded by Mr. Goldenberg, and unanimously
78 carried, the Board moved to approve the 6th – 90 day time extension for the Granite
79 Pointe Subdivision Re-Grant of Final Subdivision Approval, Wetland, Steep

80 Slopes, Tree Preservation and Stormwater Management and Erosion and Sediment
81 Control Permits, as per Resolution 2017-10, from February 2, 2019 up to and
82 including May 2, 2019, pursuant to Town Law Section 276 (7) (c) and Town Code
83 Section 50-13M. The Property is located on the east side of Route 118/202,
84 adjacent to the Amawalk Reservoir and is located in an R-40 Zoning District for
85 the development of 23 lots in a Cluster Subdivision.

86

87 **PROJECT REVIEW:**

88

89 **NORTH COUNTY HOMES, INC. – CARDINAL WAY: TM: 16.17-2-7&4**

90

91 Chairman Currie stated the Board is in receipt of two memos; one from Woodard
92 and Curran and the second from Syrette Dym, Director of Planning.

93

94 Syrette Dym, Director of Planning, stated that the Board has to make a
95 Determination of Significance and there are several actions the Board must take on
96 the Preliminary Subdivision. The first is to accept the role as Lead Agency under
97 SEQRA.

98

99 On a motion by Mr. McNamara, seconded by Ms. Gerbino, and unanimously
100 carried, the Board accepted Lead Agency Status under SEQRA.

101

102 Director of Planning Dym stated the Board has to make a Determination of
103 Significance. She reviewed the Part II Environmental Assessment Form (EAF) and
104 the Negative Declaration with the Board. She stated the Negative Declaration
105 focuses on some minor issues: steep slopes that have been modified on the
106 driveways; groundwater in terms of the Amawalk Shenorock Water District,
107 which includes the construction of permanent stormwater management structures
108 and limited impervious coverage and, any human health issues which the New
109 York State Department of Environmental Conservation identified as the nearby
110 Granite Pointe site, and that is being cleaned up, and, the other portion is under
111 conditions, and although not directly related to this site, they are being taken care
112 of separately. As a result there is no significant impact on the environment and if
113 the Board agrees, you should vote on the Negative Declaration.

114

115 After further review and discussion, on a motion by Chairman Currie, seconded by
116 Mr. McNamara, and unanimously carried, the Board approved the Part II EAF and
117 Negative Declaration.

118

119 Consulting Town Engineer (CTE) Barbagallo stated the applicant has done a nice
120 job addressing all his comments, and wanted to inform the Board that the
121 stormwater mitigation has been completed, adding that the parcel is under one acre
122 and the requested items are over and above. A note pertaining to the construction
123 fencing has been placed on the plans and a new survey will show the trees. The
124 open items that are still pending are the results of the soil testing, and then having
125 the New York City Department of Environmental Protection (NYCDEP) sign off
126 on the plans.

127
128 CTE Barbagallo asked if the Board wanted to see the lighting on the plans before
129 going to resolution, which would be the only item that the Board might look at.

130
131 Director of Planning Dym stated we are looking for approval for the preliminary
132 subdivision.

133
134 Mr. McNamara and Ms. Gannon announced some corrections to the Resolution. .

135
136 Ms. Gerbino stated on page one, where it references proof of paid taxes, the
137 resolution stated “proof of taxes paid, letter dated June 29th” she added that what is
138 needed is a letter for the September taxes, to ensure that the taxes are paid up to
139 date.

140
141 Director of Planning Dym explained that the resolution is talking about documents
142 that were received with the original application.

143
144 After discussion, the Board decided that will be a condition for final approval.

145
146 Chairman Currie asked if there was any other comments by the Board on the
147 Resolution, there were none.

148
149 On a motion by Mr. McNamara to approve Resolution 2019-01 as Amended,
150 seconded by Ms. Gannon and unanimously carried, the Board moved to approve
151 the Preliminary Resolution, as Amended, for the North County Homes, Inc.
152 Preliminary Subdivision.

153
154
155
156
157

158 **NEW YORK/SMSA LIMITED PARTNERSHIP d/b/a/ VERIZON**
159 **WIRELESS APPLICATION FOR SPECIAL PERMIT RENEWAL FOR**
160 **THE PROPERTY AT 121 ROUTE 100 (AMATO PROPERTY):**
161 **TM 38.17-1-5**
162

163 Chairman Currie stated this is an application of New York/SMSA Limited
164 Partnership d/b/a/ Verizon Wireless for Renewal of Special Permit Renewal of
165 existing approved Facility located at 121 Route 100 – owned by Michael P & Alice
166 T. Amato Property.

167
168 Mr. Michael Sheridan, Attorney with Snyder & Snyder, LLP, approached the
169 Board and stated, that in connection with this application and the second
170 application, located at 2580 Route 35 his presentation will be combined for a few
171 moments.

172
173 Attorney Sheridan stated a memo was received from Director of Planning Syrette
174 Dym and a response was put together which included the requested information.

175
176 The outstanding information for 121 Route 100 included the underlying structure
177 report, co-location information to which Mr. Sheridan stated that as Verizon is not
178 the owner of the tower they are not the entity that would get requests for co-
179 locators. However, he did reach out to the tower owner who indicated that they
180 have recently come to an agreement with Sprint as an additional co-locator and that
181 there are no other co-location requests at this time.

182
183 Chairman Currie asked Director of Planning Dym if she would like to ask the
184 questions that she provided to the Board.

185
186 Director of Planning Dym stated yes, and that she would like to make certain that
187 Consulting Town Engineer (CTE) Joseph Barbagallo is in agreement.

188
189 Director of Planning Dym stated, first, the applicant is due a refund of five hundred
190 dollars (\$500.00). In reviewing the Town Board resolution from December 13,
191 2018 for a renewal, the application fee is five hundred dollars (\$500.00) and not
192 one thousand dollars (\$1,000.00).

193
194 Secondly, users of the facility, Director of Planning Dym asked if that is what was
195 being referred to when Mr. Sheridan mentioned Sprint.

196

197 Attorney Sheridan stated yes, that it is his understanding that the tower owner
198 stated that Sprint is going to be a new co-locator on this tower and that there are no
199 other co-location applications at this time.

200

201 Director of Planning Dym explained that the Town of Somers Code is very specific
202 what an applicant has to provide for a renewal.

203

204 Secondly, is a description of all equipment at the facility based on what is presently
205 existing, which the applicant has provided, and the third item is something that
206 CTE Barbagallo may want to speak about, which is the requirement of a report
207 from an engineer specializing in structural engineering, certifying that the facility
208 is structurally safe. The letter, dated December 3, 2018 was provided but it
209 referred back to another study that was not provided. We requested a copy of that
210 report because the engineer was not providing an opinion, he was only referring
211 back to the earlier report.

212

213 CTE Barbagallo added when looking at the Bennett & Pless Report he assumes
214 that Bennett & Pless is not proximate to the site to do the site inspection, but they
215 did do the analysis.

216

217 Attorney Sheridan stated this is not a Verizon Wireless tower, Verizon Wireless is
218 merely a co-locator on the tower, and they do not have access to climbing the
219 tower, or information of other co-locators on the tower, as they are a tenant on the
220 tower. What was done, per the Town Code was Verizon Engineer stated in a letter
221 certifying there are no issues at this tower, and were told to get the most recent
222 structural report from the tower owner. That was done for both of these
223 applications and then Bennett & Pless reviewed the report, did a site inspection, as
224 required by Code, and based on the signed and sealed reports in hand were able to
225 sign and seal their own letters that there were no issues at the tower.

226

227 Attorney Sheridan opined that some of the requirements are really more for the
228 tower owners and not for the co-locators on the tower who really do not have the
229 access or ability to be able to do this.

230

231 CTE Barbagallo stated that is more a legal issue and Town Attorney Eriole can
232 address that.

233

234 CTE Barbagallo continued, stating what he sees as a red flag, is the person that was
235 sent to the site and said yes, it looks like what was evaluated in the report, but it
236 speaks nothing to the condition of the pole and foundation. It is assumed that the

237 inspector looked at the structural elements and reported them to be in good
238 condition as the report states: *“They said their inspection appeared to match the*
239 *antenna loading used in the most recent structural analysis...”* thus the inspection
240 was focused on the loading and not the condition of the pole, I think there needs to
241 be an element on the condition of the pole.

242
243 Attorney Sheridan stated if you look at the structural consulting services letter
244 dated December 3, 2018 it states *“at the time of our visit the existing monopole*
245 *and foundation appear to be in good condition with no visible apparent signs of*
246 *defect, or structural”*.

247
248 CTE Barbagallo stated he is comfortable with that. The only item CTE Barbagallo
249 stated, is he needs to check on Bennett & Pless. Having never heard of them he
250 needs to check to see if they are licensed to work in New York State.

251
252 Attorney Sheridan stated this is the tower owner’s structural firm and assumes they
253 are as well.

254
255 CTE Barbagallo stated they have a New York Licensed Professional Engineer but
256 that does not necessarily mean the company is licensed to work in New York.

257
258 As long as they looked at the condition of the tower, as the December 3, 2018
259 letter sounds like it does, I am comfortable that this structural analyses covers it.

260
261 Mr. Prince asked why the tower owner isn’t asking for this information and not the
262 co-locator.

263
264 CTE Barbagallo asked isn’t the Special Permit issued to the tower owner.

265
266 Director of Planning Dym stated there are special permits issued, and as best as she
267 understands from the history of what has happened, a tower owner will often times
268 come in with a co-locator. This is what she has observed from past approvals and
269 then over time other co-locators come to that particular tower. So there are permits
270 for the tower and then there are permits for the individual co-locators, and
271 presumably they all need renewals in five (5) year periods.

272
273 Director of Planning Dym continued, saying, some years ago when applications
274 started to come in she received the following input from the Town Attorney: Any
275 of the approvals for Special Permits that came into the Town prior to 2002; which
276 was the date of the incorporation of the Telecommunications Section of the Zoning

277 Ordinance, §170-129, when they need approval for either new locators or
278 renewals for co-locators, they go back to the Zoning Board of Appeals (ZBA)
279 because the ZBA was the originator of their approvals. Anything application post
280 2002 will come back to the Planning Board.

281

282 Director of Planning Dym added a list was developed in the office of all Cell
283 Towers located in the Town of Somers that states if they are Pre 2002 or Post
284 2002.

285

286 Secondly, Director of Planning Dym stated the applicant should have asked for this
287 renewal one (1) year ago because the five (5) year original approval expired last
288 year.

289 This happened one other time with Cuddy & Feder who represented one of their
290 clients, where they were in between and the Board approved one part for two (2)
291 years and one part for three (3) years. Now Attorney Sheridan is before the Board
292 representing his client, and, except for the report that we are waiting for, he has
293 given us the other information and as long as CTE Barbagallo is satisfied, when
294 they come back for the next meeting, I would say they have complied and pending
295 CTE Barbagallo's approval a Resolution of Approval can be prepared. The
296 question for the Board now is whether that approval should be for four (4) or five
297 (5) years. I am recommending four (4) years.

298

299 Mr. McNamara asked if this will bring it into the five (5) year period. Then he also
300 asked if there are distinctions between the permit that is issued to the tower Owner,
301 as in a structural permit, versus a permit issued to the users of the tower i.e.
302 Verizon or AT&T. He added he views them as two (2) different permits; one is a
303 structural permit and one is a user permit, the Code should be a bit clearer on this.

304

305 Director of Planning Dym stated the only thing that the office has received is for
306 additional users on existing poles and upgrades.

307

308 Mr. McNamara stated he understands the new users and upgrades, but what about
309 the renewal requirement for the pole itself.

310

311 Director of Planning Dym stated she has not had to deal with that since she has
312 been here. There has not been a new pole, we have done Special Permits for
313 existing poles. Detailed reports are on file related to the emission of radio heads
314 and how they do or do not meet the Federal standards, but this is just a renewal.

315

316 Mr. Prince asked, if this application is one year late in applying for their renewal of
317 the permit, has the owner of the pole come in for his renewal and are we following
318 up with the owners to ensure they renew their permits.

319

320 Director of Planning Dym stated it is the responsibility of the owner of the pole to
321 follow up on their renewals.

322

323 CTE Barbagallo stated this is a very interesting question; can the Board renew a
324 permit for a user when the pole itself does not have a current special use permit.

325

326 Mr. Prince asked if we are asking for a structural report why we are asking Verizon
327 and not the pole owner.

328

329 CTE Barbagallo stated typically, when I saw the structural report, I assumed that it
330 was coincident with the pole, what has happened in the past is to allow the co-
331 locator upon their renewal to rely on the structural report that was prepared by the
332 pole owner.

333

334 Ms. Gerbino stated that is what we received in the past, a structural report from the
335 owner.

336

337 CTE Barbagallo stated this is essentially what is happening here, Mr. Sheridan is
338 relying on the pole owner.

339

340 Mr. Prince asked how old the report is.

341

342 CTE Barbagallo responded the report is from July 2018. But the interesting
343 question here is if the pole does not have a valid Special Use Permit can the Board
344 grant the application the ability to renew their permit.

345

346 Town Attorney Joseph Eriole stated this answer cannot be straightforwardly
347 answered from the Code itself, this will take some research.

348

349 Chairman Currie opined the unfairness of this as it is not the tenant's responsibility
350 it is the landlords.

351

352 CTE Barbagallo stated this could be used to trigger a violation to the pole owner
353 for not updating their permit.

354

355 Ms. Gerbino stated the Board went through this before and at that time one of the
356 Board members was an Attorney, he read the code and brought to the Board's
357 attention the problems. The applicant received a copy of the condition of the pole
358 from the owner and it was a current report, but what came out of that was there
359 was no system in place, at that time, for the fact that we required a five (5) year
360 renewal. From that, legislation was put in place, but it was not fully addressed and
361 we were recalcitrant and not following through on the Code and never asked for
362 anyone to come forward with a five (5) year renewal.

363
364 Ms. Gannon recalled that the four (4) year compromise because of the five (5) year
365 due date for the renewal.

366
367 Mr. Prince asked Attorney Sheridan if he is concerned that if something happens to
368 the pole and you have a permit and the owner of the pole does not have a permit,
369 doesn't that expose a lot of people to liability.

370
371 Attorney Sheridan stated he does not think that is a concern, as the Town Engineer
372 stated the report is recent and there is frequently work going on, on the towers;
373 replacing antennae's and structural reports are produced all the time, It is not a
374 question of the facility being deficient.

375
376 Attorney Eriole stated the question whether the Board is in any way constrained
377 from issuing the permit, is different from whether the applicant should be
378 concerned and address this amongst themselves.

379
380 CTE Barbagallo stated he would like to understand the mechanism of this, if yes
381 the Board can issue this approval, but should this owner and the pole owner be
382 issued a violation of the Special Permit.

383
384 Mr. McNamara asked if Town Counsel could look at this issue and suggest some
385 legislative changes to make it explicit, not only the difference between structural
386 and use, but also the procedures for renewals.

387
388 CTE Barbagallo stated the structure of the pole should be owned by the pole
389 owner, however, technology changes rapidly and pretty soon we are going to have
390 5g technology and who knows what those antennae's will look like. We might
391 have an applicant coming in like this, a user of the pole, that is proposing to change
392 the equipment on the pole and they will have to demonstrate to this Board that it is
393 not going to impact the structural integrity of the pole.

394

395 Mr. Prince explained to the Board, the Zoning Board of Appeals process for the
396 renewal of Accessory Apartments; after seven (7) years it must be renewed, if it is
397 not renewed a violation is issued. He then asked why this is not part of the
398 Approval of the Special Permit. The Board stated it is in the Town Code and is
399 part of the Resolution.

400

401 Attorney Eriole stated from a regulatory perspective telecommunication towers are
402 very different and this issue requires some work.

403

404 Chairman Currie stated is it not fair to hold up this applicant because his landlord
405 may or may not have applied for the Special Permit.

406

407 Mr. McNamara stated this application is based on current structural integrity
408 certifications and he does not see why the Board cannot go forward.

409

410 CTE Barbagallo stated he agreed, and added looking through the file and reading
411 the Tectonic Report he is comfortable that it addresses the structural elements and
412 the inspection.

413

414 Ms. Gerbino asked how tall the tower is.

415

416 Attorney Sheridan stated between one hundred and thirty nine (139) & one
417 hundred and forty (140) feet.

418

419 Chairman Currie asked Director of Planning Dym and CTE Barbagallo if they had
420 any further questions.

421

422 CTE Barbagallo stated the he just needs to ascertain if Bennett and Pless is allowed
423 to practice in New York.

424

425 Ms. Gannon asked what happens if they are not.

426

427 CTE Barbagallo responded they will have to get someone else to sign off on the
428 report.

429

430 On a motion by Chairman Currie, seconded by Mr. McNamara, and unanimously
431 carried, the Board approved the Type II SEQRA Designation.

432

433 On a motion by Chairman Currie, seconded by Mr. McNamara, and unanimously
434 carried, pursuant to Section 170-129.6.G of the Code of the Town of Somers the
435 Board waived the Public Hearing.

436

437 Chairman Currie added this will be a renewal for 4 years.

438

439 Director of Planning Dym asked if the Resolution should be prepared for Chairman
440 Signature or for review by the Board at the next meeting.

441

442 Mr. McNamara suggested for Chairman's signature pending CTE Barbagallo's
443 satisfaction and validity of the technical report.

444

445 Ms. Gannon asked if Counsel comes back to the Board, even if this is not on the
446 agenda, to get an explanation on what happens if the existing tower where this co-
447 location is happening does not have a current permit, what is going to happen.

448

449 Attorney Eriole stated yes he will get that to the Board.

450

451 CTE Barbagallo stated he is checking further but it appears that Bennett & Pless is
452 not registered as a professional operation licensed to practice engineering in the
453 State of New York.

454

455 CTE Barbagallo suggested to Mr. Sheridan to check on this and maybe get a firm
456 that is licensed in the State of New York, such as Tectonic.

457

458 CTE Barbagallo stated this is an interesting question, they are relying on a report
459 that was provided by the tower owner, that may be an appropriate structural
460 analysis, but this company is not licensed to practice in the State of New York,
461 even though they have a licensed Professional Engineer in the State of New York,
462 that does not mean the business is allowed to practice in the state.

463

464 He added the applicant has provided a letter from an engineer that is licensed to
465 practice in New York. So where the applicant is doing the right thing, the reliance
466 on the report coming from the tower owner is a problem.

467

468 Ms. Gerbino asked if the tower owner is located in Tennessee.

469

470 Mr. McNamara added the tower owner deserves a notice.

471

472 Ms. Gannon asked if the state is issuing licenses and regulating the professional
473 practice within the state, then the company that is issuing the report that did the
474 analysis, even though they are not the ones adopting and submitting it, is it
475 conceivable that we can accept it.

476

477 CTE Barbagallo stated the Board cannot rely on a report from an entity that is not
478 licensed in the State of New York.

479

480 Director of Planning Dym added that she has received several calls from power
481 companies that are likely to be applicants, so it is possible that these are questions
482 that will continue to come up.

483

484 Ms. Gannon stated, as a regulated practice, I do not think this is the last time we
485 are going to encounter this sort of thing, let's find out the legal answer to this
486 question.

487

488 Attorney Eriole stated this is a cottage industry and often the experts are national
489 experts.

490

491 Ms. Gerbino opined that we are talking about a structure in the Town of Somers
492 and she would want somebody or some firm that the Board is familiar with.

493

494 In addition, Ms. Gannon asked if the notice of violation would come from the
495 Consulting Engineer's office or the Building Inspector's Office.

496

497 CTE Barbagallo stated from the Code Enforcement Officer's.

498

499 Mr. Sheridan added that the report is coming from an Engineer that is licensed in
500 the State of New York.

501

502 Discussion ensued on the legalities of these issues.

503

504 **NEW YORK/SMSA LIMITED PARTNERSHIP d/b/a/ VERIZON**
505 **WIRELESS APPLICATION FOR SPECIAL PERMIT RENEWAL FOR**
506 **THE PROPERTY KNOWN AS 2580 ROUTE 35 (SANTARONI**
507 **PROPERTY): 37.13-2-3**

508

509 Chairman Currie stated this is an application of New York/SMSA Limited
510 Partnership d/b/a/ Verizon Wireless for Special Permit renewal of existing

511 approved Facility located at 2580 Route 35 owned by Umberto and Carol
512 Santaroni.
513 Director of Planning Dym asked the applicant's Attorney, Mr. Sheridan to go
514 through this application.
515
516 Attorney Sheridan stated comments that were responded to were the Tectonic
517 Engineering letter, it was requested that the report did not note other carriers on the
518 pole or in the compound, toward the middle of the page below the bullet points a
519 sentence was added similar to the other letter was added to the Structural
520 Consulting Services (SCS) letter that indicates the other carriers on the compound.
521 The other item was the co-location on the tower, the tower owner is working with a
522 potential SC regarding another possible co-location request and according to the
523 tower owner there are no other co-location requests at this time.
524
525 Chairman Currie added it appears that Tectonic did the inspection and they are
526 licensed in the State of New York.
527
528 Director of Planning Dym asked if Tectonic was the consultant on this application.
529
530 Attorney Sheridan stated yes and that SCS was the consultant for the Amato
531 application.
532
533 Director of Planning Dym went over the application stating the same thing applies
534 to the refund due of five hundred dollars (\$500.00); with the statement of users,
535 she asked if there was something new on that.
536
537 Attorney Sheridan responded saying the Tectonic letter added, below the bulleted
538 points, a similar sentence as the SCS letter, wherein they listed the co-locators on
539 the tower and the compound. The co-locators are AT&T, T-Mobile and Sprint.
540
541 Mr. McNamara asked if there were three co-locators.
542
543 Attorney Sheridan stated yes, in addition to Verizon Wireless.
544
545 Director of Planning asked if that was on the original submission letter.
546
547 Attorney Sheridan stated no, it is on the letter submitted this evening, a revised
548 Tectonic letter that responds to your comment.
549

550 Ms. Gannon stated they are also referencing a Bennett & Pless report dated July
551 18, 2018, it states “...*the field information was subsequently compared with the*
552 *most recent structural analysis in report No 18313.060 prepared by Bennett &*
553 *Pless.*”

554

555 Chairman Currie stated the first sentence says that Tectonic did the inspection on
556 November 13, 2018.

557

558 Ms. Gannon stated it is also referencing the Tectonic letter. Then she asked CTE
559 Barbagallo, if when you read the Tectonic letter are they referencing the letter.

560

561 CTE Barbagallo stated the consultants’ letter references the report. Adding the
562 language in the structural consultant’s report states “*in our professional opinion*
563 *the existing monopole facility meets the requirements of the Building Code of New*
564 *York State and that the existing structural integrity of this facility has been*
565 *maintained.*”

566

567 He added he would like to tie the loop on the question about does the sign off by
568 an appropriately registered and licensed company relying on information from
569 someone who is not, is this a legal question.

570

571 Chairman Currie stated that he did not believe the second application was doing
572 this.

573

574 Mr. Prince stated in the second paragraph it states “*the inspection included a*
575 *limited visual inspection from the ground using high digital resolution cameras of*
576 *the existing wireless communication installation at the above referenced site.*”

577 That means all they did was look at it through a camera.

578

579 Mr. Prince added using the words “*a limited inspection*” seems to be opening
580 themselves up to a lot of problems.

581

582 Discussion ensued regarding the meaning of this statement.

583

584 Attorney Sheridan stated the requirement of the Code is to have a physical
585 inspection of the property. Not speaking as an engineer he asked is that limited –
586 because they did not dig up the ground, look at the foundation.

587

588 CTE Barbagallo stated, reading further into the report they do talk about what was
589 exposed and what was looked at.

590 Attorney Sheridan added the report stated *“no structural problems were observed*
591 *with the exposed portions of the pole base, plate, anchor bolt and foundation.”*
592

593 Chairman Currie asked Director of Planning Dym, why is she asking if there are
594 potentially any other requests for co-locations.
595

596 Director of Planning Dym responded it is what is written in the Code.
597

598 Discussion ensued regarding if the Code is capable of handling what it is being
599 asked, who do you ask that question to, owner or the tenant; and is this done by the
600 pole owners or users.
601

602 Mr. McNamara opined that the Town Attorney has to look at that and suggest
603 refinements of the Code for the Town Board to adopt.
604

605 Ms. Gannon recalled one of the things going on when the poles were coming into
606 Town was that it was very difficult to get information from the applicants. She
607 recalled that there was a sense from the Board, at that time, that is was very
608 difficult to nail down where was the next request for a pole was to come from, so it
609 may have been a way of gathering more information when you had someone on
610 site.
611

612 Her recollection was this pole was built to go higher, designed so that it could be
613 expanded versus placing two poles there due to the surrounding heavily residential
614 area.
615

616 CTE Barbagallo stated when this application came in there was a lot of
617 landscaping issues and when the tower owner came in there were a lot of
618 obligations there.
619

620 Ms. Gannon added she recalls the owner coming in and using the words “in
621 perpetuity” a lot.
622

623 CTE Barbagallo asked if this pole owner has a valid permit.
624

625 Director of Planning Dym stated they are expired also.
626

627 Discussion continued about both companies adopting the structural analysis that
628 are registered in New York, the question is, can they take the liability and therefore
629 can we allow them to rely on a report that is not registered in New York.

630 On a motion by Chairman Currie, seconded by Mr. McNamara, and unanimously
631 carried, the Board approved the Type II SEQRA Designation.

632

633 On a motion by Chairman Currie, seconded by Mr. McNamara, and unanimously
634 carried, pursuant to Section 170-129.6.G of the Code of the Town of Somers the
635 Board waived the Public Hearing.

636

637 Chairman Currie stated the resolution will be based upon the answers provided by
638 Counsel before proceeding further.

639

640 Mr. McNamara added and the response and advice to the Board on what was
641 determined.

642

643 There being no further business, on a motion by Chairman Currie, seconded by
644 Ms. Gannon, and unanimously carried, the meeting was adjourned at 8:35.p.m.

645

646 Chairman Currie announced the next Planning Board meeting will be held on
647 February 13, 2019 at 7:30pm.

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660 2/5/2019 3:00 PM

Respectfully submitted,



Barbara J. Sherry
Planning Board Secretary