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PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



John Currie, *Chairman*
Fedora DeLucia
Christopher Foley
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
John Keane

3

**SOMERS PLANNING BOARD MINUTES
DECEMBER 11, 2013**

4

5

6

ROLL:

8

PLANNING BOARD

MEMBERS PRESENT:

Chair Currie, Ms. Gerbino, Mr. Goldenberg,
Mr. Foley and Ms. Gannon

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12

ALSO PRESENT:

Director of Planning Syrette Dym
Consultant Town Engineer Joseph Barbagallo
Planning Board Town Attorney Joseph Eriole
Planning Board Secretary Marilyn Murphy

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ABSENT:

Mrs. DeLucia and Mr. Keane

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The meeting commenced at 7:30 p.m. Planning Board Secretary Marilyn
Murphy called the roll. She noted that a required quorum of four members
was present in order to conduct the business of the Board.

**APPROVAL OF DRAFT MINUTES FOR MEETING HELD
ON OCTOBER 9, 2013**

Chairman Currie noted that Planning Board Secretary Marilyn Murphy
prepared and submitted for the Board's consideration approval of the draft
minutes of the Planning Board meeting held on October 9, 2013.

1 The Chair asked if there were any comments or corrections from the Board
2 on the October 9, 2013 Planning Board minutes and no one replied.

3
4 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
5 carried, the draft minutes of October 9, 2013 were approved.

6
7 The DVD of the Planning Board meeting held on October 9, 2013 is made
8 a part of the approved minutes and is available for public viewing at the
9 Somers Public Library. The text of the approved minutes is also on the
10 Town's website www.somersny.com and is available for public review at
11 the Planning & Engineering office.

12
13 **TIME-EXTENSION**

14
15 **MERRITT PARK ESTATES FINAL SUBDIVISION APPROVAL**
16 **[TM: 5.20-1-1]**

17
18 Chairman Currie explained that this is a request for a 90-day time-
19 extension for the Merritt Park Estates Final Subdivision from December 30,
20 2013 up to and including March 31, 2014 in accordance with §150-13.M. of
21 the Code of the Town of Somers. He noted that this is the fourteenth
22 request for an extension of Final Subdivision Approval.

23
24 Chair Currie acknowledged receipt of a letter dated December 4, 2013 from
25 Geraldine Tortorella, the applicant's attorney, requesting the time-
26 extension. He said that Director of Planning Dym submitted a letter dated
27 December 6, 2013 stating that she has no objections to the extension of
28 the subdivision approval.

29
30 Chair Currie asked if there were any comments or questions on the
31 requested time-extension.

32
33 Director of Planning Dym explained that an issue arose due to the recent
34 nor'easter rainstorm when the stormwater entered the sewer pipe on the
35 subject property leading to the Heritage Hills sewage treatment plant. She
36 said that the cap on the Mancini property failed but once Heritage Hills
37 notified the Mancini's the cap was immediately replaced. Director of
38 Planning Dym noted that Steve Woelfle, the Town engineering technician,
39 makes weekly inspections.

1 Ms. Gerbino said it was a storm event and she asked the date of the
2 incident.

3
4 Director of Planning Dym indicated that she did not know exactly when the
5 problem happened but it was within the last 90 days.

6
7 Mr. Goldenberg commented that there should be a differential between the
8 property at Heritage Hills such as Society property or the condos.

9 He mentioned that this type of issue might affect one of the condos or the
10 Society. He said he is concerned that the roads in Heritage Hills have
11 been patched and other disturbed areas have been seeded, mulched and
12 stabilized. Mr. Goldenberg said he would like to make sure that the
13 Heritage Hills Water and Sewer District staff is satisfied.

14
15 Director of Planning Dym stated that John Meyer Consulting is the engineer
16 for the Heritage Hills Treatment Plant. She noted that they were satisfied
17 with the solution to the problem.

18
19 Consultant Town Engineer Barbagallo explained that the plan was
20 approved to extend the water and sewer system from Heritage Hills into the
21 Merritt Park property. He said that in order to bridge the gap to where the
22 mains exist in the streets of Heritage Hills and the Merritt Park property
23 excavation was required to extend the mains. Consultant Town Engineer
24 Barbagallo mentioned that the system has been extended onto the property
25 and the roads were patched where they had to dig and the shoulders have
26 been seeded and stabilized. He indicated that now that the pipe is on the
27 Mancini property, stormwater got into the pipe and went down to the
28 Sewage Treatment Plant.

29
30 Consultant Town Engineer Barbagallo said that Mr. Goldenberg's concern
31 is whether the work that was done off site of the Mancini property has been
32 restored to the satisfaction of the appropriate parties. He said that he will
33 coordinate with Mr. Woelfle to make sure that the work has been restored
34 to everyone's satisfaction.

35
36 On motion by Chair Currie, seconded by Ms. Gannon, and unanimously
37 carried, the Board moved to grant a fourteenth 90-day time-extension to
38 Merritt Park Estates Final Subdivision Approval from December 30, 2013
39 up to and including March 31, 2014 in accordance with Somers Town Code
40 §150-13.M.

1 **PROJECT REVIEW**

2
3 **NEW YORK SMSA LIMITED PARTNERSHIP (VERIZON WIRELESS)**
4 **AMENDED SPECIAL USE PERMIT AND AMENDED SITE PLAN**
5 **[TM: 37.13-2-3]**
6

7 Chairman Currie said that the Board will be reviewing the application of
8 New York SMSA Limited Partnership for Amended Site Plan and
9 Conditional Special Use Permit.

10
11 Chair Currie acknowledged receipt of a memo from Director of Planning
12 Syrette Dym dated December 4, 2013 and a memo from Consultant Town
13 Engineer Joseph Barbagallo dated December 6, 2013.

14
15 Chair Currie asked the applicant's representative to update the Board on
16 the application.

17
18 Michael Sheridan, the applicant's attorney, noted that Verizon Wireless
19 wants to co-locate on the tower located at 2580 Route 35. He said that
20 Verizon will be the second co-locator on the pole which was designed for
21 five co-locators. Attorney Sheridan mentioned that he received memos
22 from the Director of Planning and the Consultant Engineer which he
23 addressed except for a few additional comments he would like to discuss.
24 Attorney Sheridan stressed that things got a lot off track at the last meeting.
25 He explained that there was discussion on the generator, its location and if
26 Verizon would supply other generators at the site. Attorney Sheridan
27 stated that Verizon is just a tenant and has no association with other
28 tenants. He mentioned that Verizon leased space for its equipment and
29 generator. Attorney Sheridan commented that at the time of the original
30 Site Plan approval there was a 20'X30' lease area for one co-locator. He
31 mentioned that Verizon took that space because of the generator. Attorney
32 Sheridan said that it is not fair to expect Verizon to apply its generator to
33 other co-locators.

34
35 Mr. Foley noted that the Board just inquired about the capacity of the
36 generator to assist with other co-locators. He said that he is hearing that
37 the applicant will not even address the inquiry.

38
39 Attorney Sheridan explained that Verizon is only locating this generator for
40 its site and is not looking forward and said if it would, it be able to supply

1 power to other co-locators. He said that Verizon will not provide power for
2 existing or future co-locators. Attorney Sheridan said there are many
3 issues involved such as leasing and liability issues.

4
5 Mr. Goldenberg asked if the owner of the tower is the person the Board
6 should ask about the generator and not the applicant.

7
8 Mr. Foley said that Verizon has authority to put in the generator.

9
10 Consultant Town Engineer Barbagallo explained that what Verizon is
11 proposing is within their lease area.

12
13 Planning Board Town Attorney Eriole advised that if the lease area is part
14 of the approved plan it is the applicant's problem to comply with the
15 approved plan.

16
17 Attorney Sheridan noted that he provided documentation that Verizon is not
18 taking up more space than was originally specified for a co-locator.

19
20 Consultant Town Engineer Barbagallo asked Insite Towers, LLC to provide
21 a letter saying they have seen the amended Site Plan and associated plans
22 and find them acceptable.

23
24 Ms. Gerbino asked if Umberto Santaroni, the owner of the property where
25 the tower is located, has been notified.

26
27 Planning Board Town Attorney Eriole said legally Mr. Santaroni does not
28 have to be copied on the memos from the consultants.

29
30 Consultant Town Engineer Barbagallo indicated that he is curious about the
31 Town's emergency equipment and if there will be enough power to assist
32 the Town to provide emergency power to the emergency services.

33
34 Mr. Foley said that the capacity of the generator was discussed in the
35 beginning of this application. He noted that the proposed generator was
36 constructed for this application but there may be capacity for the Town's
37 emergency services in the event of a power outage.

38
39 Attorney Sheridan stated that he is looking to receive approval on the
40 application he submitted as quickly as possible. He said to backtrack and

1 negotiate with the Town and all the liability issues will hold up Verizon's
2 approval.

3
4 Consultant Town Engineer Barbagallo said the Board should think about
5 how important emergency power is at the facilities and if it requires a Code
6 Amendment to address. He explained that when there is a request for a
7 new tower or Special Permit renewal that there be a requirement that
8 emergency services be provided.

9
10 Planning Board Town Attorney Eriole said he will provide the Board an
11 opinion on the request that emergency services be provided for a new
12 tower application or a renewal of the Special Permit approval.

13
14 Consultant Town Engineer Barbagallo noted that the tower is located on
15 environmentally sensitive land (wetland). He said he is concerned about
16 the fuel truck that backs into the site to fill up the 75 gallon fuel oil storage
17 tank. Consultant Engineer Barbagallo indicated that the tank is contained
18 with a triple wall unit. He asked what is the protection during the filling
19 operations of a spill that occurs during the process of filling the tank.

20 Consultant Engineer Barbagallo said that given the sensitive nature of the
21 land the tower is adjacent to is a concern.

22
23 Attorney Sheridan noted that the people that will be filling the tank are
24 trained in spill management to avoid spills. He explained that spill kits are
25 used when the tanks are being filled. Attorney Sheridan said that the tanks
26 have 50 gallons of excess capacity.

27
28 Consultant Town Engineer Barbagallo said he is not concerned with what is
29 happening in the tank but in the transition between the truck and the pipe
30 that comes out of the truck and the tank. He noted that he would like
31 something specific to the fill port, such as hoods that go over the top and
32 bolts onto the wall that can hold two to three gallons of material.

33
34 Attorney Sheridan explained that the triple wall fuel containment is
35 proposed to prevent impacts from any potential fuel tank failure rather than
36 provision of a containment dyke that was suggested by the Planning Board
37 which will not be feasible due to the location of the generator on piers.

38

1 Ms. Gerbino said that all activities on or adjacent to NYS Route 35 shall be
 2 completed in accordance with NYS Department of Transportation (DOT)
 3 requirements.

4
 5 Consultant Town Engineer Barbagallo agreed that should be an on-going
 6 condition required after signing of the Site Plan.

7
 8 Consultant Town Engineer Barbagallo asked about the calculation of the
 9 proposed electrical load usage for the generator.

10
 11 Attorney Sheridan said that when the power is out the calculation of the
 12 proposed electrical load usage for the generator is 4.3 gallons per hour.

13
 14 Consultant Town Engineer Barbagallo indicated that the Environmental
 15 Assessment Form (EAF) indicates that a motion activated light will be
 16 installed on the exterior of the equipment shelter and positioned to face the
 17 ground but the Town Code specifies that illumination is prohibited on a wire
 18 telecommunication facility within the exception of facility safety lighting. He
 19 asked the Planning Board to consider whether motion activated lighting
 20 constitutes safety lighting as defined by Town Code.

21
 22 Attorney Sheridan explained that the light will be shielded and pointed
 23 toward the ground.

24
 25 Chair Currie mentioned that Director of Planning Dym prepared a
 26 Resolution for the Board's consideration.

27
 28 Director of Planning Dym noted that she removed the emergency power
 29 Whereas Clause from the Resolution and will work out language with
 30 Consultant Engineer Barbagallo on the DOT requirements.

31
 32 Mr. Foley noted that the Special Permit Approval is not amended and the
 33 Board and Director of Planning agreed to that change. Mr. Foley also
 34 suggested changing the title box to read Co-Location of a Wireless
 35 Telecommunication Facility *on Existing Tower Owned by Insite Towers,*
 36 *LLC* at 2580 Route 35. He also suggested on the second to last Whereas
 37 Clause on page 3 to put "*eligible facilities request*" in quotes. Mr. Foley
 38 suggested change to the language under Permit Term to read *The Special*
 39 *Use Permit term for the Verizon Wireless antennas and associated*

1 *equipment shall be effective on the date of this approval and shall expire*
 2 *five years from the date of this approval.*

3
 4 Ms. Gannon asked Consultant Engineer Barbagallo for the correct
 5 language under Best Management Practices on Page 10.

6
 7 Consultant Town Engineer Barbagallo suggested language to read *The*
 8 *Applicant implements and maintains Best Management Practices and*
 9 *erosion control measures during construction in accordance with the*
 10 *current edition of the NY State Stormwater Design Manual.*

11
 12 Mr. Foley asked how soon after approval is granted does the applicant
 13 have for Signature of the Site Plan.

14
 15 Director of Planning Dym said that the applicant has one year from the date
 16 of the meeting where the Resolution was approved to have the Site Plan
 17 signed.

18
 19 Mr. Foley asked if the recipient of the original tower was Homeland Towers
 20 and now is Insite Towers, LLC. He commented that it is curious that Insite
 21 Towers has not been notified that their approval is being modified.

22
 23 Attorney Sheridan stressed that Insite provided a Letter of Authorization
 24 appointing NY SMSA Limited Partnership, Verizon Wireless, and its
 25 authorized representatives, as the owner's agent for the purpose of
 26 consummating any applications necessary to insure Verizon Wireless
 27 ability to use the Tower Site for the purpose of installing a communication
 28 facility at the Tower Site, consisting of antennas and related equipment.

29
 30 Planning Board Town Attorney Eriole advised that a letter from Insite
 31 Towers, LLC be provided that they are the successor of the lease on which
 32 the tower is located and have seen the amended Site Plan and associated
 33 plans dated November 22, 2013 and find them acceptable.

34
 35 On motion by Ms. Gannon, seconded by Mr. Goldenberg and unanimously
 36 carried, the Board moved to grant Conditional Special Permit Approval
 37 pursuant to §170-129.6 Special Use Permit and Amended Site Plan
 38 Approval in accordance with Site Plan Review §170-129.9. of the Code of
 39 the Town of Somers to New York SMSA Limited Partnership (Verizon
 40 Wireless) for co-location of a Wireless Telecommunication Facility on the

1 existing Tower owned by Insite Towers, LLC at 2580 Route 35, Santaroni
2 Property, Section 37.13, Block 2, Lot 3 in accordance with Resolution
3 2013-10, as amended, by the Planning Board on December 11, 2013, for
4 the Chairman's signature.

5
6 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously
7 carried, the meeting adjourned at 9:00 P.M. and the Chair noted that the
8 next Planning Board meeting will be on January 8, 2014 at 7:30 P. M. at
9 the Somers Town House. There being no further business the meeting
10 adjourned.

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Respectfully submitted,

Marilyn Murphy
Planning Board Secretary