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5 **SOMERS PLANNING BOARD MINUTES**
6 **MAY 13, 2009**
7

8 **ROLL:**
9

10 **PLANNING BOARD**

11 **MEMBERS PRESENT:** Chairman DeLucia, Mr. Keane,
12 Ms. Gerbino, Mr. Foley,
13 Mr. Goldenberg and Ms. Gannon
14

15 **ALSO PRESENT:** Town Engineer Gagné
16 Town Attorney Holt-Cinque
17 Planning Board Secretary Murphy
18

19 **ABSENT:** Mr. Knapp and Town Planner
20 Charney Hull
21

22 The Meeting commenced at 7:35 P. M. Planning Board Secretary
23 Marilyn Murphy called the roll. Chairman DeLucia noted that a
24 required quorum of four members of the Board being present called
25 the meeting to order.
26

27 Chairman DeLucia announced that Town Planner Hull and husband
28 Gordon are the proud parents of a baby girl born on Thursday, May 7,
29 2009, weighing 8 pounds 6 ounces. She noted that the little Princess
30 is named Sophie Victoria and the Board congratulates Sabrina and
31 Gordon and sends them best wishes.
32

33 Chairman DeLucia noted that Planning Board Secretary Murphy
34 prepared and submitted for the Board's consideration the approval of
35 the draft minutes of the March 25, 2009 Planning Board meeting
36 consisting of fifteen (15) pages.
37

38 The Chair asked if there were any comments or questions from
39 members of the Board and no one replied.
40

1 The Chair asked if there was a motion to approve the March 25, 2009
2 draft minutes.

3

4 On motion by Ms. Gerbino, seconded by Ms. Gannon and
5 unanimously carried, the minutes of March 25, 2009, as amended,
6 were approved.

7

8 The Chair noted that the DVD of the March 25, 2009 Planning Board
9 meeting is made a part of the approved minutes and is available for
10 public viewing at the Somers Public Library and on the Town's
11 website www.somersny.com. She said that the approved minutes
12 are also available for public review at the Planning & Engineering
13 office at the Town House.

14

15 **PUBLIC HEARING**

16

17 **OMNIPOINT COMMUNICATIONS, INC.**

18 **SOMERS COMMONS**

19 **80 ROUTE 6**

20 **[TM: 4.20-1-11]**

21

22 Chairman DeLucia said that this is a Public Hearing on the
23 application of Omnipoint Communications, Inc. for Amended Site
24 Plan Approval for a wireless communication facility consisting of six
25 panel antennas concealed by and internally mounted within a 120-
26 foot stealth flagpole and a concrete pad on which equipment cabinets
27 will be placed at the base thereof to be enclosed within a block wall.

28 The Chair noted that the property is located at Somers Commons, 80
29 Route 6, owned by U.B. Somers LLC, Inc. and is zoned Community
30 Shopping (CS) District. She explained that at the February 17, 2009
31 Zoning Board of Appeals meeting, the ZBA as Lead Agency issued a
32 Negative Declaration with respect to SEQRA and granted the
33 requested area variances and special permit with conditions per
34 Resolution BZ02C/07. The Chair indicated that this application was
35 last discussed at the April 8, 2009 Planning Board meeting, whereby
36 the Board scheduled a Public Hearing for this evening and requested
37 the applicant to submit revised plans and send color samples of the
38 monopole to the Architectural Review Board.

39

1 The Chair acknowledged receipt of the following: a letter dated April
2 6, 2009 from Putnam County giving approval; a memo dated April 28,
3 2009 from the Architectural Review Board giving unanimous approval
4 of the grey/blue color for the 120' stealth pole for the cell tower; a
5 letter dated May 4, 2009 by applicant submitting plans last revised
6 April 27, 2009 and responses to written comments of Town Engineer
7 Gagné, Town Planner Hull and the Board; and a memo dated May
8 11, 2009 from Town Engineer Gagné with his determination, and a
9 memo dated May 5, 2009 from Town Planner Hull with her project
10 review and recommendations.

11
12 The Chair commenced with the Public Hearing. She asked Planning
13 Board Secretary Murphy if prior to the Public Hearing had the
14 required legal notice been published and the adjoining property
15 owners notified and the sign indicating the Public Hearing posted on
16 the property.

17
18 Planning Board Secretary Murphy replied that the notice was
19 published in the North County News on May 3, 2009 and the notice of
20 the Public Hearing was mailed to the adjoining property owners on
21 May 3, 2009 and the sign posted on the property on April 30, 2009.

22
23 The Chair asked the applicant's representative to give a brief
24 presentation for the benefit of the public.

25
26 Robert Gaudioso, the applicant's attorney, mentioned that the
27 Architectural Review Board (ARB) recommended painting the pole
28 Rhombus SW4051 (grey/blue color) and that the slats in the gates
29 match the color of the slats that already exist. He said that he has no
30 objection to the ARB's recommendation. However, if the Planning
31 Board would like another color for the monopole a majority plus one
32 vote will be needed to overcome the ARB's recommendations.

33
34 The Chair asked Town Engineer Gagné to give his comments
35 regarding his May 11, 2009 memo to the Board for the benefit of the
36 public.

37
38 Town Engineer Gagné indicated that he reviewed the latest drawing
39 revisions and determined that all his concerns have been

1 successfully addressed, except that the yard drain in the gravel
2 surface compound may be eliminated.

3

4 Attorney Gaudioso said that he has no objection to eliminating the
5 gravel surface compound.

6

7 The Chair explained that Town Planner Hull is not present this
8 evening. However, in her May 5, 2009 memo to the Board, she
9 comments that "The Planning Board should determine whether or not
10 they agree with the ARB regarding removal of the finial ball, the color
11 of the pole and matching the color of the slates in the gates."

12

13 The Chair asked if anyone from the public wished to be heard on the
14 application and no one responded.

15

16 The Chair asked if there was any comments or questions from
17 members of the Board.

18

19 Mr. Goldenberg asked what Town Engineer Gagné meant by "except
20 that the yard drain in the gravel surface compound may be
21 eliminated."

22

23 Town Engineer Gagné explained that a yard drain in a gravel surface
24 is useless and should be eliminated.

25

26 Mr. Goldenberg asked that the word *may* be eliminated when the
27 condition is put in the resolution.

28

29 Mr. Keane said that he has a concern about the color of the pole
30 and what was presented to the ARB. He questioned how many color
31 options the ARB was provided with and what was the basis of
32 choosing the grey/blue color and whether the camouflage colors were
33 mentioned. He noted that the color of the monopole depends on the
34 setting where it is located and he does not disagree with the ARB's
35 choice of colors. Mr. Keane suggested for future use that the
36 monopole can be painted in patterns to break up the way the pole
37 looks.

38

1 Ms. Gannon mentioned that she was looking on the Internet and
 2 found a website that showed stealth pole patterns and she will e-mail
 3 the information to the Board and staff.

4
 5 Attorney Gaudioso indicated that in the March submission they
 6 showed an example of the bottom part of the pole being a brownish
 7 color (two color pole). He said that there is a two color pole at Phelps
 8 Memorial Hospital if the Board would like to see it. Attorney
 9 Gaudioso explained that the ARB was shown the same photographs
 10 that were shown to the Planning Board. He showed the Board the
 11 Sherman Williams color system that was provided to the ARB.

12
 13 The Chair commented that Town Planner Hull in her May 5, 2009
 14 memo said that the applicant met with the ARB and the ARB has
 15 requested that:

- 16
- 17 1. The finial ball at top of pole be removed and the Board
- 18 agreed to remove the finial ball.
- 19 2. That the pole shall be painted a Rhombus SW4051
- 20 (grey/blue color) and the Board agreed.
- 21 3. That the slats in the gates should match the color of the slats
- 22 that already exist and the Board agreed.
- 23

24 The Chair said that Town Planner Hull in her May 5, 2009 memo says
 25 "Provided that there are no outstanding or new issues raised during
 26 the Public Hearing, this Office has no objection to closing the public
 27 hearing and directing that a draft resolution be prepared for the
 28 Planning Board's review."

29
 30 The Chair asked Town Engineer Gagné if he had any objection to
 31 closing the Public Hearing.

32
 33 Town Engineer Gagné stated that he had no objection to closing the
 34 Public Hearing.

35
 36 The Chair asked if there was a consensus of the Board to close the
 37 Public Hearing and direct staff to prepare a draft resolution.

38
 39 On motion by Mr. Goldenberg, seconded by Ms. Gannon, and
 40 unanimously carried, the Board moved to close the Public Hearing on

1 the application of Omnipoint Communications, Inc. for an Amended
2 Site Plan and directed staff to prepare a Resolution for the
3 Chairman's signature.

4
5 **BOARD DECISION**

6
7 **KILIAN PARCEL/HAUL ROAD RESTORATION**
8 **WETLAND, STEEP SLOPES/STORMWATER MANAGEMENT**
9 **AND EROSION AND SEDIMENT CONTROL PERMIT**
10 **[TM: 6.14-1-1]**

11
12 Chairman DeLucia said that this is the decision of the Planning Board
13 on the application of Heritage Development Group, Inc. as applicant
14 and Candee Kilian and Laura Henne as owners of the Kilian
15 Parcel/Haul Road Restoration for Steep Slopes, Wetland Protection
16 and Stormwater Management and Erosion and Sediment Control
17 Permits. The Chair explained that the site is located on the west side
18 of Warren Street. She noted that the wetland permit is requested for
19 the restoration of a temporary haul road, road shoulder, swale and
20 the regrading of the soil stock pile within the wetland buffer, and the
21 steep slopes permit is requested to reduce the steep areas of the
22 stock pile. The Chair said that this application was last discussed on
23 March 25, 2009 whereby the applicant was requested to submit
24 revised plans with additional information and respond to comments of
25 the Town Engineer and the Board. She acknowledged a letter dated
26 April 29, 2009 from the applicant's representative, Timothy S. Allen,
27 P.E. of Bibbo Associates, LLP submitting the revised plans and
28 supporting documents and responding to comments made by the
29 Town Engineer and the Board. The Chair mentioned that the Board
30 is in receipt of Draft Resolution No. 2009-04 granting Conditional
31 Approval for the Board's consideration.

32
33 The Chair asked if there were any comments regarding the draft
34 Resolution.

35
36 Mr. Goldenberg mentioned that he received three drafts of the
37 Resolution and asked which one should the Board review.

38
39 Chair DeLucia said that she reviewed the draft resolution dated May
40 12, 2009 and decided to change the order of the Whereas clauses.

1 She indicated that *after so noted* she added *on the plan* to Number 9
2 on Page 4.

3
4 The Chair suggested changing the fourth from the bottom of Page 2
5 Whereas paragraph to read, *The Planning Board conducted a site*
6 *walk during the Kilian/Henne (formerly Jones) subdivision application*
7 *to develop this track.*

8
9 Town Engineer Gagné said that he moved the conditions of the
10 permit to Page 4 under the “Be it Further Resolved” paragraph, as
11 the conditions have to be addressed prior to the issuing of the
12 permits. He noted that on Page 1, the third Whereas paragraph,
13 Chapter 93-5. , change C to B. He indicated that 93-5.C is used for
14 an administrative permit. Town Engineer Gagné indicated that on
15 page 3, the sixth Whereas paragraph the change to 93-5.B has to be
16 made.

17
18 Mr. Foley suggested changing the third Whereas paragraph on Page
19 1 to say *upon review of said application the Engineering Department*
20 *determined that action to fall within Chapter 93-5.B; and*

21
22 Mr. Foley said that after the first “Now, Therefore Be it Resolved”
23 paragraph the remaining paragraphs shall read “Be it Further
24 Resolved “. He suggested that on Page 5. under “Be It Further
25 Resolved”, that upon compliance with the above, the words Wetland,
26 Steep Slopes and Stormwater Management and Erosion and
27 Sediment Control Permit be changed to *Environmental Permits.*

28 Mr. Foley requested that *and was made* be removed from the
29 sentence in the First and second Whereas paragraph which improves
30 the flow of the sentence.

31
32 Mr. Goldenberg and Mr. Keane referenced Number 9 on Page 4 and
33 suggested changing it to read, *The SPPP and the Improvement Plan*
34 *shall identify the property owner Kilian and Henne as the party having*
35 *the long term maintenance responsibility for the improvements shown*
36 *on the approved plan.*

37
38 Mr. Goldenberg referred to condition No. 2 on Page 5; *The Somers*
39 *Town Engineer shall be notified (277-5366) prior to the beginning of*
40 *work on the site and also upon completion of the approved work.* He

1 felt that this is not proper notification and notification should be in
 2 writing.

3

4 Mr. Keane said that notification of the start and finish of work by
 5 telephone is acceptable and follows the process.

6

7 The Chair asked if there was a consensus of the Board to approve
 8 the Resolution, as amended.

9

10 On motion by Mr. Keane, seconded by Ms. Gerbino, and
 11 unanimously carried, the Board moved to approve draft Resolution
 12 No. 2009-04 Granting Conditional Approval for Wetland, Steep
 13 Slopes and Stormwater Management and Erosion and Sediment
 14 Control Permit to Candee Kilian and Laura Henne, as amended, for
 15 the Chairman's signature.

16

17 **TIME-EXTENSION**

18

19 **SOMERS MANOR NURSING HOME WASTEWATER**
 20 **TREATMENT PLANT UPGRADE SITE PLAN AND**
 21 **WETLAND PERMIT**

22

23 Chairman DeLucia noted that this is a request by letter received on
 24 April 27, 2009 from Janice Depp, Vice President of Somers Manor
 25 Nursing Home for a fourth time-extension of the Site Plan Approval
 26 for the Sewage Treatment Plant upgrade. She said that the
 27 Resolution of Approval was granted on April 13, 2005.

28

29 The Chair asked the applicant's representative to give the reasons for
 30 the time-extension and how much time will be needed for the time-
 31 extension.

32

33 Janice Depp, the applicant's representative, said that the approval
 34 from NYS Environmental Facilities Corporation (EFC) was granted in
 35 April and she was so thrilled to receive the approval that she did not
 36 realize that the Site Plan Approval had expired. Ms. Depp explained
 37 that there is one condition that is still open and that is the approval of
 38 the Westchester County Health Department. She explained that the
 39 original person working on this project was replaced and the new
 40 person requested a funding letter. She noted that Eventus

1 Construction Company has been awarded the contract and once the
2 Health Department approval is granted work can begin on the
3 upgrade to the Somers Manor Nursing Home Wastewater Treatment
4 Plant. Ms. Depp asked that the Planning Board grant a six-month
5 time-extension.

6
7 The Chair mentioned that the Board granted a time-extension for one
8 year until April 13, 2009.

9
10 Mr. Keane asked if the Board can extend an expired Site Plan. He
11 questioned if the Board should issue a re-grant of the Site Plan.
12 Mr. Keane explained that Somers Manor Nursing Home has to
13 Upgrade their Wastewater Treatment Plant and has gone through the
14 process (NYSDEP is funding the upgrade). He indicated that nothing
15 from an engineering perspective will change under the re-granting of
16 the Site Plan.

17
18 Mr. Foley said that he is asking procedurally if the time-extension is
19 the only issue the Board is dealing with.

20
21 Town Attorney Holt-Cinque advised the Board that a time-extension
22 can be granted.

23
24 The Chair asked if there was a consensus of the Board to grant a six-
25 month time extension.

26
27 On motion by Mr. Foley, seconded by Mr. Goldenberg, and
28 unanimously carried, the Board moved to grant Somers Manor
29 Nursing Home Wastewater Treatment Plant a fourth time-extension
30 from April 13, 2009 to and including October 21, 2009.

31
32

33 **SCHEDULE PUBLIC HEARING**

34

35 **BACKMAN WETLAND PERMIT**
36 **[TM: 16.10-2-36.5]**

37

38 Chairman DeLucia said that the Board will schedule a Public Hearing
39 on the application of Gary and Sharon Backman for a wetland permit
40 for property located at 18 Shenorock Drive situated on the east side

1 of Shenorock Drive 300-feet from the intersection of Overhill Road to
 2 construct a two story frame addition within the wetland buffer
 3 consisting of a two-car garage enclosure on piers at basement level
 4 and a master bedroom and bath on the first floor at the north side of
 5 the existing residence. The Chair mentioned that a site walk was
 6 conducted on Saturday, April 18, 2009 by the Town Engineer and
 7 Board members and a memo from the Town Engineer dated April 21,
 8 2009 was received listing 4 comments for the Board's consideration
 9 and that this matter may be scheduled for review and/or schedule a
 10 Public Hearing.

11
 12 The Chair acknowledged receipt on April 30, 2009 of revised
 13 drawings and responses to comments contained in the Town
 14 Engineer's April 21, 2009 memo to the Board.

15
 16 The Chair asked if there were any comments from members of the
 17 Board and no one replied.

18
 19 The Chair asked if there was a consensus of the Board to schedule a
 20 Public Hearing for Wednesday, May 27, 2009.

21
 22 On motion by Mr. Goldenberg, seconded by Ms. Gerbino, and
 23 unanimously carried, the Board moved to schedule a Public Hearing
 24 on the application of Gary and Sharon Backman for a Wetland Permit
 25 for Wednesday, May 27, 2009 at 7:30 P.M. at the Somers Town
 26 House.

27
 28 **SCHEDULE PUBLIC HEARING**

29
 30 **SANTARONI WETLAND, STEEP SLOPES AND TREE**
 31 **PRESERVATION PERMIT [TM: 38.05-2-19]**

32
 33 Chairman DeLucia noted that the Board will schedule a Public
 34 Hearing on the application of Santaroni Construction Corp. by
 35 Umberto Santaroni, owner, for a wetland, steep slopes and tree
 36 preservation permits for a new house construction and driveway
 37 within the wetland buffer. She said that the property is located on the
 38 west side of Young Road and, according to a letter dated April 22,
 39 2009 by Timothy S. Allen, P.E. of Bibbo Associates, is the subject
 40 property of Lot 1 of the approved Manor Ridge Subdivision and that

1 the proposed residence will be served by a drilled well and a separate
2 sewage disposal system. The Chair mentioned that Engineer Allen
3 has also submitted the plans and supporting documents with his April
4 22, 2009 letter. She noted that the applicant will require Westchester
5 County Board of Health approval.

6
7 The Chair asked Town Engineer Gagné why this application was not
8 considered administrative and questioned if this is a minor intrusion
9 into the wetland buffer.

10
11 Town Engineer Gagné explained that the driveway is located in the
12 wetland buffer area. He noted that the Planning Board approved the
13 elimination of the upper section of the wetland to extend the road
14 through the wetland. He said that even though this is a minor issue
15 the Code calls for a Planning Board application.

16
17 The Chair asked if there was any comments from members of the
18 Board and no one responded.

19
20 The Chair asked if there was a consensus of the Board to schedule a
21 Public Hearing for Wednesday, May 27, 2009.

22
23 On motion by Mr. Goldenberg, seconded by Mr. Keane, and
24 unanimously carried, the Board moved to schedule a Public Hearing
25 on the application of Santaroni Construction for Wednesday, May 27,
26 2009 at 7:30 P.M. at the Somers Town House.

27
28 **SCHEDULE SITE WALK/PUBLIC HEARING**

29
30 **SABATINO WETLAND PERMIT**

31 **[TM: 16.12-1-15.50]**

32
33 Chairman DeLucia noted that the Board will schedule a site walk and
34 a Public Hearing on the application of Peter and Mary Ann Sabatino
35 for property located at 16 Dunhill Drive for the construction of an
36 addition to the house and a wood deck in the wetland buffer area.

37
38 Chairman DeLucia explained that she will be recusing herself during
39 the Public Hearing as she lives across the street from the Sabatino
40 residence.

1 Town Engineer Gagné noted that the applicant recently was issued a
2 Tree Cutting Permit. He mentioned that he was surprised when he
3 read the Conservation Board's memo saying that this application is
4 incomplete. Town Engineer Gagné showed the Board pictures of the
5 site to show the Board that there is no issue with this application. He
6 noted that this application is for a minor improvement to the
7 residence.

8
9 Ms. Gerbino commented that this home was built before the Wetland
10 Ordinance.

11
12 On motion by Ms. Gerbino, seconded by Mr. Goldenberg, and
13 unanimously carried, the Board moved to schedule a site walk for
14 May 16, 2009 and the Public Hearing for June 10, 2009 at 7:30 P.M.
15 at the Somers Town House on the application of Peter and Mary Ann
16 Sabatino for a wetland permit.

17
18 There being no further business, on motion by Mr. Keane,
19 seconded by Mr. Goldenberg, and unanimously carried, the meeting
20 adjourned at 9:15 P. M.

21
22 Chairman DeLucia noted that the next meeting of the Planning Board
23 will be held on Wednesday, May 27, 2009 at 7:30 P.M. at the Somers
24 Town House.

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26
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33

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary