

TOWN OF WARWICK PLANNING BOARD

April 15, 2015

Members present: Chairman, Benjamin Astorino
Dennis McConnell, Beau Kennedy,
Christine Little, John MacDonald, Alternate
Laura Barca, HDR Engineering
J. Theodore Fink, Greenplan
John Bollenbach, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, April 15, 2015 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF David Conklin

Application for Final Approval of a proposed 1-Lot subdivision aka Estate of George Pawliczek subdivision, situated on tax parcel S 6 B 2 L 72.1; parcel located on the northeast side of Mount Eve Road 2600 feet southwest of Big Island Road (275 Mt. Eve Road), in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: David Conklin, Applicant

Connie Sardo: Mr. Chairman, I just received the certified mailings for the David Conklin public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: pending
4. Architectural Review Board comments: pending
5. OC Planning Department: 03/10/15 advise Phase 1 because of agricultural lands, Black Dirt, wetlands, and endangered/threatened species.
6. Building Department: 02/11/15 no violations; 03/04/15 the accessory structure that collapsed needs to be removed
7. The complete ZBA language must be added to the plans.
8. The five overlay districts must be added to the plans consistent with the Town of Warwick standard notes.
9. Soil tests must be witness by the Office of the Planning Board Engineer.
10. Applicant to add 911 address to the plans.
11. There appears to be a stray line from the proposed well to the words "sight distance." This line should be clarified or removed.
12. The declaration information for the Agricultural overlay district must be added to the plans.
13. Surveyor to certify that iron rods have been set at all property corners.

14. Payment of parkland fees.
15. Payment of all fees.

The following comment submitted by the Conservation Board:

David Conklin – None submitted.

The following comment submitted by the ARB:

David Conklin – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board classified this application as a Type 2 Action. No SEQRA review is necessary.

Comment #2: Applicant to discuss project.

David Conklin: This application is for a proposed single-family dwelling from a previous approved subdivision that was an omit lot on the plans.

Mr. Astorino: John, did you check on that?

Mr. Bollenbach: Yes.

Comment #3: Conservation Board comments: pending

Comment #4: Architectural Review Board comments: pending

Comment #5: OC Planning Department: 03/10/15 advise Phase 1 because of agricultural lands, Black Dirt, wetlands, and endangered/threatened species.

Mr. Astorino: I don't even see why we would do that. This is not on the black dirt or even close to it. John, do you have any comment on that?

Mr. Bollenbach: I don't see the relevance.

Mr. Astorino: I agree. Do any Board members have an issue with that?

Mr. Kennedy: No.

Mr. McConnell: No

Ms. Little: No.

Comment #6: Building Department: 02/11/15 no violations; 03/04/15 the accessory structure that collapsed needs to be removed

David Conklin: It has been removed.

Mr. Bollenbach: We can strike Comment #6.

Comment #7: The complete ZBA language must be added to the plans.

David Conklin: Yes.

Comment #8: The five overlay districts must be added to the plans consistent with the Town of Warwick standard notes.

David Conklin: Ok.

Comment #9: Soil tests must be witness by the Office of the Planning Board Engineer.

David Conklin: Ok.

Comment #10: Applicant to add 911 address to the plans.

David Conklin: Ok.

Comment #11: There appears to be a stray line from the proposed well to the words "sight distance." This line should be clarified or removed.

David Conklin: Yes.

Comment #12: The declaration information for the Agricultural overlay district must be added to the plans.

David Conklin: Yes.

Comment #13: Surveyor to certify that iron rods have been set at all property corners.

David Conklin: Yes.

Comment #14: Payment of parkland fees.

David Conklin: What is that?

Mr. Astorino: It is a one-time fee of \$2500.00.

Mr. Bollenbach: It is for each new residential lots.

David Conklin: Ok.

Comment #15: Payment of all fees.

Dave Conklin: Ok.

Mr. Astorino: This is a public hearing. If there is anyone in the audience wishing to address the David Conklin Subdivision application, please rise and state your name for the record? Let the record show no public comment.

Mr. Kennedy makes a motion to close the public hearing.

Seconded by Ms. Little. Motion carried; 4-Ayes.

Ms. Little makes a motion on the David Conklin application, granting Final Approval of a proposed 1-Lot subdivision aka Estate of George Pawliczek subdivision, situated on tax parcel S 6 B 2 L 72.1; parcel located on the northeast side of Mount Eave Road 2600 feet southwest of Big Island Road (275 Mt. Eve Road), in the RU zone, of the Town of Warwick, County of Orange, State of New York. A Type 2 Action was adopted on March 11, 2015. Approval is granted subject to the following conditions:

1. The complete ZBA language must be added to the plans.
2. The five overlay districts must be added to the plans consistent with the Town of Warwick standard notes.
3. Soil tests must be witness by the Office of the Planning Board Engineer.
4. Applicant to add 911 address to the plans.
5. There appears to be a stray line from the proposed well to the words "sight distance." This line should be clarified or removed.
6. The declaration information for the Agricultural overlay district must be added to the plans.
7. Surveyor to certify that iron rods have been set at all property corners.
8. Payment of parkland fees.
9. Payment of all fees.

Seconded by Mr. Kennedy. Motion carried; 4-Ayes.

Thank you.

PUBLIC HEARING OF Sprint (15 Pysners Peak)

Application for Site Plan Approval for the construction and use of modification of existing telecommunication facility resulting in a total of (10) New Panel Antennas and related equipment plus (1) Dish Antennas on an existing tower known as American Tower, situated on tax parcel S 58 B 1 L 18.22; project located on the eastern side of Pysners Peak and north of Kain Road (15 Pysners Peak), in the MT zone, of the Town of Warwick.

Representing the applicant: Cara Bonomolo, Snyder & Snyder, LLP.

Connie Sardo: Mr. Chairman, we have received the certified mailings for Sprint's public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: pending
4. Architectural Review Board comments: pending
5. Wireless Telecommunication Facility Board comments: pending
6. OCPD: 04/06/15 advisory comment to review structural report
7. Applicant to confirm that there is a driveway access maintenance agreement in place.
8. Provide updated Emergency Service Plan and post contact information at the site for emergency purposes.
9. §164-79.A.(1)(a) The Planning Board must determine if additional landscaping should be installed.
10. Provide earth tone color sample for fiber junction box.
11. The following Private Road notes and maintenance agreement shall be added to the plan: A declaration setting forth the private road and drainage maintenance agreement has been recorded in the Orange County Clerk's Office in Liber 4639, Page 29 on 09/29/97.
12. Payment of all fees.

The following comment submitted by the Conservation Board:

Sprint (15 Pysners Peak) – None submitted.

The following comment submitted by the ARB:

Sprint (15 Pysners Peak) – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has classified this as a Type 2 Action. No SEQRA review is necessary.

Comment #2: Applicant to discuss project.

Cara Bonomolo: Sprint is seeking approval to modify its existing wireless telecommunication facility on the existing tower located at 15 Pysners Peak. When we were here at the last meeting there were comments from the engineer. Majority of the comments were changes to the site plan. We had forward a revised site plan by email. I also have hard copies to give you if the Board would like.

Mr. Astorino: Yes.

Connie Sardo: I will take one set for the files.

Cara Bonomolo: In addition we submitted a letter from American Tower addressing the issue of plowing the road. They had indicated that they have been communicating with Mrs. Barca. They are working on that issue.

Comment #3: Conservation Board comments: pending

Comment #4: Architectural Review Board comments: pending

Comment #5: Wireless Telecommunication Facility Board comments: pending

Comment #6: OCPD: 04/06/15 advisory comment to review structural report

Mr. Astorino: Laura, we have done that. Is that correct?

Laura Barca: Yes.

Mr. Bollenbach: Laura, do you want to make a comment on that? Was it the OCPL's question regarding the structural load capacity that it was previously at 105%? Could you explain what it is at now?

Laura Barca: The structural capacity is still currently at 105%. There is a technical reason of why 105% is ok even though it is greater than 100%. HDR's Structural Engineer went through all of the regulations that are required. His conclusion was that the allowable capacity for any is 133% of its designed capacity even given the temporary high wind speed that could be found at the elevation that it is at.

Mr. Bollenbach: Ok. Thank you.

Ms. Little: We had that with another tower? Is that correct?

Mr. Astorino: Yes.

Comment #7: Applicant to confirm that there is a driveway access maintenance agreement in place.

Cara Bonomolo: Yes.

Comment #8: Provide updated Emergency Service Plan and post contact information at the site for emergency purposes.

Cara Bonomolo: That is fine. That is a new comment. It wasn't in the comments from last month. We will take care of it.

Comment #9: §164-79.A.(1)(a) The Planning Board must determine if additional landscaping should be installed.

Mr. Astorino: That is if you are putting in more ground equipment.

Cara Bonomolo: All we are doing here is putting in a fiber junction box. It is a small box. It will be in the existing compound. The whole enclosure is screened by existing vegetation. In addition, the elevation is significantly higher from the road. If you are at the road level, you cannot see into that compound. We think the existing vegetation is sufficient.

Mr. Astorino: Ok.

Comment #10: Provide earth tone color sample for fiber junction box.

Cara Bonomolo: They don't paint it. It comes in whatever color it comes. It is similar to a mechanical box that you might put on a wall.

Mr. Bollenbach: There are declarations that are recorded that requires that they be earth tone non-reflective colors.

Cara Bonomolo: We had put a note on the plan indicating that.

Ms. Little: Isn't it going inside of another box?

Cara Bonomolo: No.

Ms. Little: Ok.

Mr. Astorino: Send us a color photo of the box.

Cara Bonomolo: Ok.

Mr. Astorino: This way we have something on record for our files.

Cara Bonomolo: Ok. No problem.

Comment #11: The following Private Road notes and maintenance agreement shall be added to the plan: A declaration setting forth the private road and drainage maintenance agreement has been recorded in the Orange County Clerk's Office in Liber 4639, Page 29 on 09/29/97.

Mr. Bollenbach: That is a carryover from the current site plan that is in effect.

Cara Bonomolo: Ok. We added a note to the plan to that effect. It is Note #6 on the plans.

Laura Barca: Yes. They have added that note. I just kept that note here so that we could cover it formally into the next meeting.

Mr. Astorino: Ok.

Comment #12: Payment of all fees.

Cara Bonomolo: Ok.

Mr. Astorino: Do any Board Members or Professionals have any comments?

Ms. Little: I just want Laura to confirm that she has been discussing the road situation with them. Do you feel confident that they will be maintaining it?

Laura Barca: Yes. I have had several conversations with American Tower. American Tower currently has a local contractor that has a maintenance contract for the two towers that are at Tower Lane which is off Brady Road. It is my understanding that they are currently working on having the same contractor maintain this which is a much shorter and less expensive. I don't for see a problem with that.

Mr. Bollenbach: Just as a point of information, since American Tower took over the Brady Mountain facility, things have been going very smoothly. We are pleased with the way things are going with them.

Cara Bonomolo: Good.

Mr. Astorino: Ok. Do any Board Members or Professionals have any other comments? This is a public hearing. If there is anyone in the audience wishing to address the Sprint application, please rise and state your name for the record.

Fred Manzella: I live at X Pysners Peak. The first notice I received for this was the other day. Would it be possible for us to get some additional information? We have no idea on what changes are going to be made. We do in fact maintain the road that is there.

Mr. Astorino: You maintain Pysners Peak.

Fred Manzella: Right.

Mr. Astorino: You don't maintain the road to the tower.

Fred Manzella: Not the road to the tower. To get to the tower, they have to use our road. We would like to have more information on what they are doing and proposing. We want to look it over to see if we are in agreement with it.

Cara Bonomolo: I would be happy to explain that now. I have here a set of plans. I would be happy to give you a set of the plans.

Mr. Astorino: Any of this information is also available in the Planning Office.

Fred Manzella: I didn't know there was.

Mr. Astorino: That is why you are here this evening. They are required to send out a Notice. You are here. We will answer whatever questions that we can answer.

Fred Manzella: When will this decision be made?

Mr. Astorino: Potentially this evening.

Fred Manzella: That is kind of not fair. We haven't had the opportunity to take a look at what you are doing.

Mr. Astorino: Ultimately, it is the decision of the Planning Board and its Professionals to make a sound decision. If there is something that a resident or a neighbor brings up that we feel is a show stopper on our end, we will take care of it from our end. If there is an issue that you raise that we could address and address it adequately, we will do that. Ultimately, it is the Planning Board's responsibility to make a decision on this.

Fred Manzella: I understand that. The issue that I have is that we have not had the opportunity to take a look at this. I would like us to have at least a week for us to review on what is being done. This is our property. These are our houses.

Mr. Astorino: We understand that. There are Codes that we have to follow as a Board which we had done as far as notices, mailings and the legalities of it.

Fred Manzella: I don't doubt that at all. I just want an opportunity to look at what you are proposing.

Mr. Astorino: That is fine. If you have any questions, bring them out.

Fred Manzella: You can't ask me to take a look at it right now.

Mr. Astorino: I am not asking you to look at it. There are antennas that are being taken down. There are additional antennas being put up. I think there will be 4 more antennas than what is there right now.

Cara Bonomolo: Sprint operates an existing facility on this tower already. They already have a facility there. All they are looking to do is take down 6 antennas that are there. Then they want to put up 10 similarly sized antennas at the same height. They are not increasing the height. They are also proposing a dish antenna. As far as any additional ground equipment, it is just a small fiber junction box that we discussed earlier that is within that existing compound. There is really no impact on the surrounding area from this modification.

Fred Manzella: I may be wrong, but 5 or 6 years ago we were told that there would be no changes to this. That is why I am asking for time to review this. That was my understanding.

Mr. Astorino: I believe there is a lot of space. They could take them off. They could put them on if they meet the structural requirements. Laura, is that correct?

Laura Barca: That is correct. Technology changes every day. If it is your recollection from a past meeting that there would never be a change again, there will always be a change in technology. In 25 years there might not even be cell towers anymore. We don't know that now.

Fred Manzella: That would be nice.

Laura Barca: It would be. As of right now, they are changing to keep up with everybody's smartphone. That is what this upgrade is all about.

Fred Manzella: I understand that technology moves forward. I am just asking for time to review what the proposal is for. That is all. You could accept it or not.

Mr. Astorino: That has been noted. Thank you.

Fred Manzella: Ok.

Mr. Astorino: Is there anyone else wishing to address the Sprint application?

Peter Pakola: I live at X Pysners Peak. I have a few questions. Regarding the maintenance. I plow the road there. I don't get any money from the tower for plowing the road.

Mr. Astorino: Was that ever an agreement?

Peter Pakola: No. It was not.

Mr. Astorino: The initial tower went there. That was before our time.

Peter Pakola: I plow the road basically because it has to be plowed so that we could get in and out. The neighbors pitch in for the maintenance on the truck. The plowing time that I put in, I think I am going to start billing the tower for access to their tower. Unless, they are going to plow the road.

Mr. Bollenbach: There is a maintenance agreement in place. It should be part of your deed. There are 4 lot owners that are supposed to participate in the maintenance of the road including the snow plowing. One of the participants would be American Tower.

Peter Pakola: You were entitled to that all along.

Mr. Bollenbach: You're supposed to share in the cost equally.

Cara Bonomolo: Just to be clear, I do not represent American Tower.

Mr. Astorino: Right. She does not represent American Tower.

Peter Pakola: Ok. Is there an address or something that we could bill to?

Mr. Astorino: Yes. We could get that information to you.

Peter Pakola: I don't have any other complaints.

Mr. Astorino: If you are entitled to it, you are entitled to it.

Mr. Bollenbach: You had some concerns that you shared with the Supervisor. I think one was regarding the light that had broken. It was shining into your bedroom window?

Peter Pakola: No. I would like to explain that. In the day time, it is a white light. It is a photocell. It took weeks of trying to find out who could fix this. It was a white light shining all night long. What is supposed to happen, the white light is in the day time. The photocell changes it from white to red at night. That is not effective. The red light is not a problem at night. The photocell failed. We had a white light all night long for weeks and weeks. When it was foggy, it lit up the whole house. It was like a strobe light in the house. We are located 250 feet from the structure of the steel tower. I am the closest house to the tower.

Mr. Bollenbach: If you have any concerns or difficulties like that in the future, please contact the Building Department.

Peter Pakola: I did. He was actually annoyed that I even bothered him with this problem. He told me that I would have to go to American Tower and get the plate number to call them. He did not want to give me any help at all.

Mr. Bollenbach: I will look into that.

Mr. Astorino: Call the Planning office.

Peter Pakola: That was the issue with the Building Inspector. I don't remember which Building Inspector it was.

Mr. Astorino: Connie will give you the number of American Tower.

Peter Pakola: I wound up going up there through the snow. I got a phone number. I must have made 10 phone calls. I finally got a hold of somebody. It was fixed a couple of weeks later. At that time, there was 3 feet of snow. You couldn't get up there any sooner. They weren't maintaining the road and plowing it. You couldn't get to it to fix that light. It eventually did get fixed. I was very appreciative that it was fixed. I have another question. I read an article in the paper about something on Brady Road that they were using a microwave behind the antenna.

Mr. Astorino: That is not. Cara represents Sprint. Sprint leases space from American Tower. American Tower on Pysners Peak leases space to Sprint. She is not dealing with a microwave or anything like on Brady Mountain.

Peter Pakola: So, is there no microwave antennas behind the antenna that is going to increase the volume?

Cara Bonomolo: We do have a small dish antenna that is 28" in diameter. The idea for that is to provide backhaul.

Mr. Astorino: It is not producing out? It is just receiving?

Cara Bonomolo: It is point to point.

Laura Barca: Right. It is what she just had said. It is data transfer that goes from point to point.

Mr. Astorino: Just for the public's benefit, Laura is the Planning Board's Engineer. Her professional company is HDR Engineering. The applicant comes to us with their proposal and plan and all their RF Reports and technical data gets reviewed by a professional wireless telecommunication person. We are getting data that is fed back to us from Laura's company that proves what the structural and RF's are. No offense to the applicant, but we don't take their word for it. That is clear as nuts and bolts as you can get it. We review whatever is presented. We make sure it meets the criteria.

Peter Pakola: Ok. Two years ago when they added 4 panels and did whatever changes they made, we were under the understanding that the tower was maxed out. We were told that no more additional antennas would be put on that tower.

Mr. Astorino: I think what happens is as technology changes as Laura had pointed out, they are pulling some antennas off and putting some other antennas on.

Peter Pakola: They are adding 4 antennas.

Mr. Astorino: They are adding 4 antennas, but it is not adding anything to the structure. So essentially the structure is at the same percentage as it was 2 or 4 years ago. It is still at 105%.

Laura Barca: Yes. It is still at 105%.

Mr. Astorino: It has not increased.

Peter Pakola: Regarding the radiation RF Report, one probably produces negligible amount. They are adding 4 more now. So one is nothing. Ten is something.

Mr. Astorino: Does the RF Report indicate that there is an issue with radiation?

Laura Barca: No. Absolutely not.

Mr. Astorino: Ok. That is the issue that we have to go with.

Mr. McConnell: Mr. Chairman, it is worth noting that we don't have the authority to speak to the RF anyway. That is a Federal standard that is set. That is not in the purview of a local Board.

Mr. Astorino: But, we did review it with our professionals.

Mr. McConnell: Right.

Mr. Astorino: It meets that requirement.

Mr. McConnell: Right. We want to make sure that they meets the Federal standard. Unless I am mistaken John, we don't have any say over that.

Mr. Bollenbach: No we do not. Federal standards have been established.

Mr. Astorino: They meet those standard guidelines.

Mr. Bollenbach: Yes.

Laura Barca: That is correct. They have what is called a maximum exposure limit. It is 2.6% of the maximum exposure limit.

Peter Pakola: Where is the tower at now?

Laura Barca: It is at 2.6% of 100% of the maximum exposure limit for Sprint's facility.

Peter Pakola: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Sprint application?

Bill Pysner: I live at XX Pysners Peak. I have the same concerns as what Peter had said. The last meeting that we were at, the tower was at 100%.

Mr. Astorino: The tower is at 105%.

Bill Pysner: If you are allowed 100% then to me 105% is over its capacity.

Mr. Astorino: Laura, maybe you could explain the percentages? You don't understand. I agree with what you are saying about the 100%. But that is not how this works. We have had numerous cell towers like the one on Brady Mountain which is at 115% of capacity. Laura, what is this tower allowed at? Is it 133%?

Laura Baca: It is allowed up to 133%.

Bill Pysner: Why wasn't that brought up at the last meeting?

Mr. Bollenbach: It was over 100% the last time.

Bill Pysner: We were told that would be it. There would be no more meetings. That it is maxed out and no more would be put on.

Laura Barca: No.

Bill Pysner: They are taking 6 antennas off and putting on 10 antennas. To me that is increasing. Whether it is small or bigger that is increasing the amount of antennas on that tower.

Mr. Astorino: It may be the number of antennas. But, it is not increasing the structural of it. It is not increasing the weight load.

Bill Pysner: When does it stop? The FCC keeps on changing regulations. They can just put this thing up and make it glow.

Bill Pysner: First of all, the owners of the tower are not even here.

Mr. Astorino: They do have to come before the Town every 5 years.

Mr. Bollenbach: It is every 5 years to renew their Special Use Permit. They come before the Planning Board to renew their Special Use Permit every 5 years.

Bill Pysner: There are major concerns up there. First of all, these registered letters, we just received those 5 days ago. That does not give us any time to consult. Maybe, we should speak to an attorney about this situation to find out when it stops. Living there, we have rights also. I don't think it is right that we walk in and everything is already pre-approved. We voice our opinion. You guys here us. Then it is approved and we go away.

Mr. Astorino: Absolutely not.

Bill Pysner: The last time we were here we were told it was at 100% and that was it. Now she is saying you can go to 133%.

Mr. Astorino: Let's back up a minute. First of all, Cara is not saying anything. Second of all, it is not pre-approved.

Bill Pysner: Ok.

Mr. Astorino: What I had said before is what we do. They put these antennas on it. We have our people that work for us. They don't work for Sprint or for American Tower. They work for the Town of Warwick Planning Board. They take the information that is provided. They review it. Laura has professionals in her company that professionally review it. What is submitted to us gets reviewed by our people. Our people tell us in a report which could be made available to anyone. It is public record. It tells us what and how it is. The RF Report meets the Federal guidelines. The structural capacity meets its standards. That is not Cara. She could tell us whatever she wants. We make sure on our own that it meets these requirements. That is what we do. We do it for every application.

Bill Pysner: Ok. Then ask the Engineer, when did it go from 105% to 133%?

Laura Barca: It is not at 133%.

Bill Pysner: You are saying it is at 105% right now. Who changed it that it could go to 133%?

Laura Barca: Nobody said that they are planning on going to 133%.

Bill Pysner: Eventually they will.

Mr. McConnell: Regarding the 105% or the 133%, what is that a measurement of? Is it a measure of the structural capacity of the physical tower? Is it a measure of the RF that is permitted? I think this gentleman is concerned about something. He is focusing on this 100%. I don't think probably that it is a real concern.

Laura Barca: Right. The 105% is the structural capacity of the tower. It doesn't have anything to do with the RF. It is a physical structure. What we do, when my company HDR gets the structural report that is prepared by a Professional Engineer in the State of New York, we get that report and review it. In this particular case we could compare it to what was submitted previously. This way we could see exactly what has come off and what is going on. It is the tower owner/applicant's responsibility to tell us that. Because we have the historical information right in front of the Planning Board, we could confirm that. They made the decisions and prepared the reports, but we could confirm that because we have the information. It is human nature that 100% is the max. When you get to 100%, you are done.

Bill Pysner: That was what was discussed the last time we were here.

Laura Barca: But, what happens in a structural report there are different things that you look at.

Mr. Astorino: Let's put it this way. We could get into the technical end of it. The bottom line is that the tower was at 105% when you left here 2 or 3 years ago. As of right now, if this was to get approved tonight, it would be at 105% verified by our Engineering Firm. That doesn't change. If they decide to come back again, or another provider decides to come back again, you will receive another letter. I can't help that. I don't control the FCC. I don't control what the Feds do with their cell towers. We do have a responsibility to make sure whatever is brought before us is done correctly. That is the reason for the letters. That is the reason for us reviewing it. That is it in a nutshell. If this Board feels we need more information, we have no problem requesting it. If we feel that the information that we requested is adequate, we will move on it. That will be what it is. All of you have brought up valid points. Regarding the structure, at least in my mind our experts reviewed it. It is a sound structure.

Ms. Little: Your safety is definitely our concern.

Bill Pysners: Is it?

Mr. Astorino: Without a doubt.

Ms. Little: That was why I asked Laura the question if they are going to be maintaining that road. It has to be maintained. We want to make sure. I know that is a different issue than what is going on with the tower. We look at all of the safety issues. We do have your concerns.

Bill Pysner: The numbers are always changing. It could go to 145%.

Mr. Astorino: Actually they did. At the last meeting it was at 105%. John, is that correct?

Mr. Bollenbach: Yes.

Mr. Astorino: Now it is 105%. That hasn't changed. That is a fact.

Bill Pysner: Why are they saying 133% now?

Mr. Astorino: They are saying that it is a potential that it could be. That has nothing to do with Sprint. Right now, if this is to be approved, it would stay exactly the same for the structure.

Bill Pysner: All that I am asking for is possibly between my neighbors and I that we can discuss the outcome so that we could discuss maybe getting an attorney and finding out about this stuff. We only had 5 days when we received this letter. That does not give us a whole lot of time to prepare for anything other than coming here representing our street, neighbors and concerns about our health.

Mr. Astorino: That has been noted. It would be up to the Board.

Connie Sardo: I would also like to mention if you go to the Town's website at townofwarwick.org, every new Planning Board application that comes before the Planning Board is posted on the Town's website a month before a meeting.

Bill Pysner: Fine. I'm a computer illiterate. I don't use computers.

Connie Sardo: Ok. I am just letting you know that it has been noticed for over a month. It was also advertised in the Dispatch.

Mr. Astorino: Mr. Pysner, do you have anything else?

Bill Pysner: Just hear what we are saying.

Mr. Astorino: Ok. Is there anyone else wishing to address the Sprint application?

Iris Pakola: I live at X Pysners Peak. I am trying to comprehend all of this. Are we going to get fried with this tower? Are we going to be forced to abandon our homes that we worked so hard all of our lives for? Of course we cannot fight the FCC. That is out of the question. As I understand of the RF report there is a 2% of the compliance. Is that correct?

Laura Barca: No. Right now, Sprint's proposed antennas would be at 2.6%.

Iris Pakola: Is that with the new antennas?

Laura Barca: Yes. That is of the maximum exposure limit.

Iris Pakola: Ok. The dish that they are going to be adding is that not a microwave dish. Did I hear you correctly?

Cara Bonomolo: It is a microwave dish antenna. The purpose of it is to connect the facility back to the switching center in the place of fiber cable.

Iris Pakola: Does anybody know about the dish that is there now what that is? Is the dish that you are talking about going to be similar to the dish that is there now?

Cara Bonomolo: I don't believe that it has a cone shape to it. Ours is only 28" in diameter. I don't know the size of that dish that is there now.

Iris Pakola: Ok. As far as the panels are concerned, are you going to take these panels down?

Cara shows the plans to Iris and explains to her what panels are going down and what is going up in place of it.

Iris Pakola: How many panel antennas are on the tower now?

Laura Barca: The structural report and drawings show it. Right now, I don't know the total number.

Iris Pakola: Ok. When I spoke to the Supervisor, he told me there was a maintenance agreement. You discussed that. That is ok by me. I know that you were saying that a month ahead of time the plans come in. But we work all the time. We don't stay on top of that. I would like to propose for consideration if we could get the letters more in advance.

Mr. Astorino: That is the Section of the Code that we follow. We cannot arbitrarily change the Town Code.

Iris Pakola: We are counting on you guys. You are our Planning Board people. In the event that they come back whether it is Sprint or someone else to add more panels, I assume we would get additional reports. We can trust you guys to say no with the health issues.

Mr. Astorino: If they don't meet the requirement, we deal with facts. If our Professionals say there is going to be a problem here, then the applicant would have a problem with that. We make sure that they meet the Code. That is what our Professionals are here for.

Iris Pakola: There is no way for us to say when would there be the maximum amount.

Mr. Astorino: We don't know. We could have another provider come in like Verizon for an example and they might want to take 6 antennas down and put 5 more up. They would come before the Planning Board. You guys live next to a cell tower. You will all receive letters when and if that happens. You will all be back here. There is no guarantee in saying that nobody is going to come back and change their technology.

Iris Pakola: It is pretty sad that technology goes before people's lives. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Sprint application?

Fred Manzella: Are there any plans on adding a third tower there?

Mr. Astorino: I don't know.

Fred Manzella: That property backs up. Could they build another 300' tower there and put up another 20 panels?

Mr. Astorino: I have no idea.

Laura Barca: We have not received any application for that.

Mr. Astorino: I wouldn't even know if they would have room up there.

Ms. Little: Ted, if that would be the case, would that be a SEQRA issue?

Mr. Astorino: Yes.

Mr. Fink: Yes.

Ms. Little: Ok. That would be a whole different type of review.

Mr. Fink: Not only would it be a SEQRA issue, it would be classified as a Type 1 Action. That means that there could be potential environmental impacts. That would need a full review. There would be a Special Use Permit. This application is just for Site Plan Approval. If they wanted to put up a whole new tower, they would have to go through a much more rigorous review process. That is mandated both by the Town Code and as well as the State Law.

Fred Manzella: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Sprint application? Let the record show no further public comment. Do any Board Members or Professionals have any comments?

Mr. McConnell makes a motion to close the public hearing.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

Mr. Bollenbach: Regarding Comment #9, does the Board want to discuss additional landscaping?

Ms. Little: If it is within the enclosure and it is not changing, then I don't see a need for it.

Mr. Bollenbach: It is not changing.

Mr. McConnell: I don't see that it is necessary.

Mr. Astorino: I don't see a need for the additional landscaping.

Ms. Little makes a motion to waive additional landscaping.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

Mr. Kennedy makes a motion on the Sprint 15 Pysners Peak application, granting Site Plan Approval for the construction and use of modification of existing telecommunication facility resulting in a total of (10) new panel antennas and related equipment plus (1) dish antennas on an existing tower known as American Tower, situated on tax parcel S 58 B 1 L 18.22; project located on the eastern side of Pysners Peak and north of Kain Road (15 Pysners Peak), in the MT zone, of the Town of Warwick, County of Orange, State of New York. A Type 2 Action was adopted on April 1, 2015. Approval is granted subject to the following conditions:

1. Applicant to confirm that there is a driveway access maintenance agreement in place.
2. Provide updated Emergency Service Plan and post contact information at the site for emergency purposes.
3. §164-79.A.(1)(a) The Planning Board must determine if additional landscaping should be installed. (Waived 4-15-15)
4. Provide earth tone color sample for fiber junction box.
5. The following Private Road notes and maintenance agreement shall be added to the plan: A declaration setting forth the private road and drainage maintenance agreement has been recorded in the Orange County Clerk's Office in Liber 4639, Page 29 on 09/29/97.
6. Payment of all fees.

Seconded by Mr. McConnell. Motion carried; 5-Ayes.

Cara Bonomolo: Thank you.

Review of Submitted Maps:***HOMARC, LLC.***

Application for Preliminary Site Plan Approval and Special Use Permit for the construction and use of a commercial site plan of a 21,900 square foot professional and office development on a 5.1 acre site, situated on tax parcel S 51 B 1 L 5.231; project located on the northern side of NYS Route 94 near the intersection with Warwick Turnpike (152 NYS Route 94 South, in the CB zone, of the Town of Warwick, County of Orange, State of New York. The Planning Board adopted a Final Scoping Document on 3/4/09. The Planning Board adopted an "Amended" Final Scoping Document on 7/17/13. Planning Board deemed the DEIS complete on 7/16/14. On 8/20/14 PB closed the Public Hearing on DEIS with Written Comment Period open until 9/10/14. The Preliminary Site Plan & Special Use Permit Public Hearing was adjourned without date. At the 1/7/15 Planning Board Meeting, the Planning Board accepted the FEIS for review. At the 2/4/15 Planning Board Meeting, the Planning Board deemed the FEIS complete and adopted the FEIS. Planning Board to discuss adopting the Findings Statement.

Representing the applicant: David Griggs, ERS Consultants. Paul Canivari, Applicant.

Mr. Fink: There was a relevant date and time period within which the SEQRA Regulations required that the Final EIS be available for public consideration. It was filed on April 1, 2015. We had 15 days. We have already exceeded that mandatory time period. The Planning Board could go ahead and adopt the Findings Statement tonight. I have put the Findings Statement together. Laura and I have worked on it together. We had found a couple of little things. Most of it was just cleaning up the document. The document should be accurate now. The document goes through topic by topic. It addresses all of the issues that were covered in both the DEIS and the FEIS. What the Findings Statement does in the end, is that the Board reaches a finding on each of the environmental topics that are studied. It certifies that you have considered all of the potential impacts and mitigation measures outlined in the DEIS and FEIS and that it is consistent with the social and economic considerations. The Board has properly weighed what the impacts are against the mitigation that is proposed. Basically it is a finding to approve.

Mr. Astorino: Thank you. We will need a motion to adopt the Findings Statement.

Mr. McConnell makes a motion to adopt the HOMARC Findings Statement.

Seconded by Ms. Little. The following Resolution was carried 5-Ayes.

Town of Warwick Planning Board
Homarc Commercial Development
RESOLUTION ADOPTING FINDINGS STATEMENT

WHEREAS, the Town of Warwick Planning Board (the "Planning Board") received an application from Homarc Land, LLC (the "Applicant") for Site Plan and Special Use Permit approval for development of a new ± 21,900 square foot professional and office development on a 5.1 acre site located at 152 New York State Route 94 near the intersection with Warwick Turnpike (County Route 21) in the Town of Warwick, Orange County, New York; the parcel is identified as Tax Map Section 51, Block 1, Lot 5.231; and

WHEREAS, the applicant's stated purpose of the development is to "attract economic development and reduce the increasing tax burden on local residents without destroying the rural character of the Town" through the provision of 12 to 14 new office and/or retail spaces for rent in the Community Business Zoning District; and

WHEREAS, the Project includes a one-story building, 84 parking spaces, entrance and exit drives through a marginal access road connecting with the adjoining Price Chopper Plaza, landscaping, on-site stormwater management, and water and sewer services through interconnections with the Town of Warwick's Fairgrounds systems; and

WHEREAS the Planning Board was established as the SEQR lead agency for the Project on April 16, 2008 following a coordinated review with other Involved Agencies; and

WHEREAS, the Planning Board adopted a Positive Declaration on April 16, 2008, requiring the preparation of a Draft Environmental Impact Statement ("DEIS") to assess potential environmental impacts of the Project; and

WHEREAS, Public Scoping of the DEIS was undertaken with a Final Scoping Document adopted on March 4, 2009, and due to a downsizing of the overall project, later amended with an Amended Final Scoping Document adopted on July 17, 2013; and

WHEREAS, a DEIS was prepared by the Applicant and submitted to the Planning Board for a completeness review beginning on November 20, 2013; and

WHEREAS, on March 5, 2014, the Planning Board determined that the DEIS was not complete for commencing public review and provided a list of deficiencies that needed to be provided before the DEIS could be accepted; and

WHEREAS, on June 17, 2014, the Planning Board received a revised DEIS from the applicant for a second completeness review; and

WHEREAS, on July 16, 2014, the Planning Board accepted the Homarc Commercial Development DEIS as adequate for public review, filed and distributed the DEIS in accordance with requirements of SEQR, held a public hearing on the Draft EIS on August 20, 2014 and accepted written comment on the Draft EIS until September 10, 2014, and

WHEREAS, the applicant prepared and submitted a Preliminary Final EIS document for the Planning Board's consideration, and

WHEREAS, the Planning Board adopted the Final EIS, subject to modifications, on February 4, 2015 and filed the Final EIS document on April 1, 2015, and

WHEREAS, in accordance with 6 NYCRR 617.11(a) of the SEQR regulations, the mandatory 10 day period for public consideration of the Final EIS has now lapsed.

NOW THEREFORE BE IT RESOLVED that the Town of Warwick Planning Board hereby adopts the Homarc Commercial Development Findings Statement and authorizes the Planning Board Chairman to file the Findings Statement in accordance with 6 NYCRR

617.12(b)(1) and (3) of the SEQR regulations, and to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action.

Connie Sardo: I have the HOMARC application on the 4/27/15 Work Session for the 5/6/15 Planning Board Meeting for a Preliminary Site Plan Approval and Special Use Permit public hearing.

David Griggs: Ok.

Connie Sardo: On Tuesday the day after the Work Session, I will email you the Legal Notice for you to mail out certified mail to the adjoining property owners.

David Griggs: Ok. Thank you.

Mr. Bollenbach: Mr. Chairman, we need a motion to set this for a public hearing. The last time it was adjourned without date. We need a motion to set it for the next available agenda.

Mr. Astorino: Ok.

Mr. McConnell makes a motion to Set the HOMARC Application for a Preliminary Site Plan Approval and Special Use Permit Public Hearing at the next available agenda.

Seconded by Ms. Little. Motion carried; 5-Ayes.

David Griggs: Thank you.

Paul Canivari: Thank you.

Other Considerations:

- 1. Wheeler Road Estates** – Letter from Anthony Trochiano, P&P Engineering, dated 4/2/15 addressed to the Planning Board in regards to the Wheeler Road Estates subdivision – requesting 19th 6-Month Extension on Preliminary Approval of a proposed 31-Lot Cluster subdivision + 3-Affordable Homes, situated on tax parcel SBL # 8-2-44.223; parcel located along the northerly side of Wheeler Road (C.R. 41) at the intersection with Dussenbury Drive, in the SL zone, of the Town of Warwick. Preliminary Approval was granted on 11/2/05. *The Applicant has stated that they are still working on resolving the outstanding SEQR items.* The 19th 6-Month Extension becomes effective on 5/2/15.

Mr. Kennedy makes a motion on the Wheeler Road Estates application, granting a 19^h 6-Month Extension on Preliminary Approval of a proposed 32-Lot cluster subdivision, SBL # 8-2-44.223. Preliminary Approval was granted on, 11/2/05.

The 19th 6-Month Extension becomes effective on, 5/2/15.

Seconded by Ms. Little. Motion carried; 5-Ayes.

- 2. Memo from Michael Sweeton, Supervisor & Town Board, dated 4/10/15 addressed to the Planning Board in regards for the Planning Board to discuss giving a recommendation to the Town Board for Zoning Changes.**

Mr. Astorino: We have that in our packets this evening. Take a look at them. If you think there should be any changes to it, please let Ted or Laura know.

Mr. Fink: I will have a Draft letter response for the Town Board at the Work Session. We could go over it that night.

Mr. Astorino: Yes.

Ms. Little: The one question was making an exemption for Agriculture. The size that is currently in here might limit if they want to put larger solar panels in.

Mr. Astorino: John, I think we left that out. We did discuss that. Is that correct?

Mr. Bollenbach: Yes. We will take a look at that. There might be something that we might want to add to it. I think it is at right now up to 1,000 s.f. threshold. Anything over that, it would require Planning Board review. There are many applications right now. There is also a ruling by Ag & Markets that solar panels are deemed to be agricultural structures if mounted on. We will take a look at that.

Mr. MacDonald: Is this for off and on grid solar panels?

Mr. Bollenbach: It is for both.

Mr. MacDonald: Ok.

Mr. McConnell: Is there a distinction between them in terms of structure or appearance?

Mr. Bollenbach: There are different types of solar panels. Some are just used for hot water. Some are hooked into the grids. Some are not hooked into the grids.

Mr. MacDonald: The question I was asking was in reference to if you get hooked onto a grid and you have more than 10% of your annual usage, you become more than just a homeowner. You would become a utility in a sense.

Mr. McConnell: I would be interested in hearing more about that.

Mr. Astorino: Ok. Review the document. If you have any questions or changes, please contact Ted or Laura.

3. Planning Board Minutes of 4/1/15 for Planning Board Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 4/1/15.

Seconded by Ms. Little. Motion carried; 5-Ayes.

Correspondences:

Mr. Astorino: Connie, do we have any correspondences this evening?

Connie Sardo: No.

Privilege Of The Floor For Agenda Items!!

Mr. Astorino: If there is anyone in the audience wishing to address any of the agenda items, please rise and state your name for the record. Let the record show no public comment.

Mr. McConnell makes a motion to adjourn the Planning Board Meeting of April 15, 2015.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.