

TOWN OF WARWICK PLANNING BOARD

January 16, 2019

“DRAFT”

Members present: Chairman, Benjamin Astorino
Roger Showalter, Vice-Chairman
Dennis McConnell, Christine Little,
Bo Kennedy, John MacDonald, Alt.
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, January 16, 2019 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.

Mr. Astorino: I first would like wish everyone a Happy New Year and do a little housekeeping for the New Year.. I would like to appoint Mr. Showalter as Vice-Chairman of the Planning Board for the year 2019. Roger, thank you for everything you have done for us in the past and within my absent.

Mr. Showalter: You are welcome.

Mr. Astorino: I would also like to thank the rest of the Board and Professionals for all your great services and welcome back. Since it is winter time now, if there is a need to cancel a meeting due to inclement weather, Connie will notify everyone by 4:00pm if there are any cancellation or rescheduling of meetings.

Review of Submitted Maps:

View Verizon Wireless 31 Ruszkiewicz Lane

Application for Site Plan Approval and Special Use Permit for the construction and use of 120' Cell Tower with 60'x60' compound and related improvements, including antennas, cables and equipment, situated on tax parcel S 3 B 1 L 56.3; project located on the north side of Liberty Corners Road (31 Ruszkiewicz Lane), in the SL zone, of the Town of Warwick.

Representing the applicant: Scott Olson, Esq. from Young Sommer, LLP.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board: no comments received
4. Architectural Review Board: no comments received
5. OCPD: 01/09/19 no advisory comments
6. Building Department: 12/26/18 open permit for fence (23975); permit needed for shed (04/05/12 title letter)
7. OCDPW: approval needed for access from Liberty Corners Road (County Route 88).

8. Applicant to obtain a 911 address for the proposed tower from the Town's 911 coordinator. The tower will require an address off of Liberty Corners Road (because that is where the access to the tower is located).
9. The planning board may decide to conduct a site inspection to this proposed project site.
10. The planning board may wish to require that a "Balloon Test" be conducted for the full height of this proposed cell tower. §164-80.C(10). The Code requires this test be announced in the newspaper 14 days prior to the test. PB to determine key viewpoints.
11. An agricultural data statement must be completed and submitted to show the farms with 500-ft of this property. Form submitted must be signed.
12. Plan sheets must be in compliance with the Town's stormwater regulations (164-47.10).
 - a. the ground area in square feet and acres that will be disturbed (info is in the EAF)
 - b. a description of the slope(s) of the site (info is in the EAF)
13. The limits of disturbance and the area of disturbance (in sf and acres) must be shown on the drawings.
14. Provide Emergency Service Plan and post contact information at the site for emergency purposes.
15. §164-77A.(3) Applicant to confirm that cell tower is not located within 250-ft of a designated historic structure or within 150-ft of a scenic road right-of-way.
16. §164-77.B (1), (2), and (3) The cell tower must comply with the location requirements.
 - a. (1) The facility is not proposed to be on an existing structure.
 - b. (2) Camouflage is not proposed (galvanized steel).
 - c. (3) Complete. 01/16/19
17. §164-78.A Applicant to show/describe on drawings how this facility will be camouflaged. §164-79.A.(1)(a) or (b) The Board must determine if additional landscaping/ screening should be installed and if the tower has been camouflaged by design. A Landscape plan shall be submitted §164-80.C(8). Actual color samples for materials of construction should be provided (§164-80.C(7)). Applicant proposes no camouflage. Applicant requests a waiver on the requirement for a Landscape Plan as the area is already surrounded by mature vegetation; lease area to be enclosed by a 6 ft high wood stockade fence and gate.
18. §164-78.C Applicant to clarify what noise levels will be at the base of the building closest to the tower, including standby power generation equipment. If a generator is proposed, applicant to add note to plan and provide specifications on the proposed generator model, including manufacturer noise assessment and sound attenuation features on the drawings. A Tectonic noise letter provides noise levels at generator, nearest property line and nearest residence. Dwg C-5 does include mfr noise assessment and sound attenuation features. Generator model details are on Dwg C-5.
19. §164-78.D Applicant to provide a Radio Frequency (RF) report, see also §164-79.C(1). The RF report includes an analysis at 51 ft agl, and should be amended to include a ground-level (6 ft agl) analysis.
20. §164-79.A.(1) and (4) The color of the towers (in this case, the tri-sectored antenna system), cabinets, and associated accessory structures are required to be non-reflective; color samples must be submitted. The color scheme will be dependent on the monopole configuration (e.g., stealth tree or conventional monopole). A conventional monopole (galvanized steel) is proposed.
21. §164-79.A.(2) All lighting, including existing, must be in compliance with §164-43.4, where all lighting features are shielded/facing downward. The Statement of Intent indicates that lighting is proposed at the equipment platform, however, no details are provided in the Dwg set.
22. §164-79.A.(3)(a) All signage, including existing, must be in compliance with §164-43.1; Applicant to add note to document the type and locations of required FCC signage. FCC signage should be installed (if this application is approved) in accordance with applicable local, State, and Federal rules and regulations. Signage notes are on Sheet T-2, however,

“FCC” signage is not mentioned. The locations of some signage is not provided. There are no signage specifications.

23. §164-79.A.(3)(b) Applicant to confirm if Danger-High Voltage signs are required/posted. There is a signage note in Sheet T-2, but need for signage has not been confirmed.
24. §164-79.A(4) Applicant must comply with equipment shelter requirements. The applicant is not proposing an equipment shelter. Additional specs should be provided for the equipment area including concrete pads, equipment cabinets, lighting, etc. Culvert, antenna, RRH, and OVP specs should also be provided. Quantity of OVPs to be provided.
25. §164-79.A(5) Applicant must comply with accessory structure requirements.
26. §164-79.B(1) Applicant to provide additional information to show that the proposed tower is not located within wetlands or wetland buffers, in endangered, threatened, or special concern species habitats, water bodies, historic, or archaeological sites. Depth to groundwater and needs for dewatering should be assessed.
27. §164-79.B(2) Applicant to clarify if hazardous materials will be used at this site.
28. §164-79.B(3) Applicant to clarify that any increase in stormwater runoff shall be contained on site.
29. §164-79.B(4) Applicant to confirm that noise is less than 50dB at the property line.
30. §164-79.C(2) Applicant to clarify security measures at this site, see also §164-80.C(4).
31. §164-79.C(3) Applicant to provide foundation design/report, see also §164-80.B(3). The final structural foundation design and report should be submitted as part of the final conditions of the planning board.
32. §164-80.B.(1). This special use application requires proof that the Applicant is a licensed carrier in the project area.
33. §164-80.B(4) Applicant to show that the facility will be fully automated and will require only occasional maintenance of the facility and site. A note shall be added to the plan.
34. §164-80.C(3) Applicant to show proposed locations of antennas, mounts, and equipment shelter. §164-80.C(6) Applicant to provide the materials of the proposed facility specified by generic type and specific treatment.
35. §164-80.C(5) Applicant to provide drawings showing full build-out of tower, including on the tower and on the ground. Drawings should include the addition of cross sections for a conventional monopole and a stealth tree monopole with a scenario for full build-out (four carriers).
36. §164-80.C(9) Applicant to show visual impact with before and after color photographs/simulations of key viewpoints.
37. Sheet C-1 shows overhead power and fiber connection to an existing pole on the opposite side of Liberty Corners Road; Applicant to revise plan to show all new utility connections to be underground (See note on Sheet 2).
38. Should the Town and the Applicant pursue a monopine option, drawings shall include details of the monopine. Details, such as branch density and taper should be included.
39. Declaration information for any the Agricultural Overlay District must be added to the plan.
40. Add a note to the plan: An annual access maintenance contract shall be submitted to the Town of Warwick Building Department by May 1st of each calendar year.
41. Certification of iron pins at the corners.
42. Payment of all fees.

The following comment submitted by the Conservation Board:

View Verizon Wireless 31 Ruszkiewicz Lane – None submitted.

The following comment submitted by the ARB:

View Verizon Wireless 31 Ruszkiewicz Lane – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The application is subject to SEQRA. It is an Unlisted Action. There are no other Involved Agencies. The Planning Board could go ahead and declare Lead Agency.

Mr. McConnell makes a motion for Lead Agency.

Seconded by Mr. Kennedy. The following Resolution was carried 5-Ayes.

617.6

State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency
Unlisted Action Undergoing Uncoordinated Review

Name of Action: View Verizon Wireless 31 Ruskiewicz Lane Tower

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan/Special Use Permit application by View Wireless Infrastructure for a \pm 7.7 acre parcel of land located at 31 Ruskiewicz Lane, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 12/12/2018 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is an Unlisted action, and

Whereas, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed, forwarded to the owners of farm operations within 500 feet of the site, and then considered by the Planning Board , and

Whereas, after examining the EAF, the Planning Board has determined that there are no other involved and/or federal agencies on this matter.

Now Therefore Be It Resolved, that the Planning Board hereby declares itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all information has been received by the Planning Board to enable it to

determine whether the action will or will not have a significant effect on the environment.

Comment #2: Applicant to discuss project.

Connie Sardo: Do you have a map that you could put up on the bulletin board? There are people here this evening that would like to take a look at the map.

Scott Olson: I didn't bring a big map because it was not a public hearing. I only have a small map.

Mr. Astorino: The small map would be fine. Having a map at this point is a little premature. We are on step one. Anything that would go up there would be subject to change. This is the first time the Board will be hearing this application. There will be no action taken tonight. There will be Planning Board site visits that would need to be done. There will be numerous issues that would have to be discussed. There will be site visits and balloon test that would have to be done first. Putting up a map right now would be a little premature. This project is going to be discussed. We are only at step one right now.

Scott Olson: That was why I did not bring a big map tonight. This is a combined application. View Wireless is the company that proposes to build the tower and compound. Verizon Wireless is a FCC licensed communication carrier. They will put the antennas and equipment at the base of the tower. The proposal is to put up 120-foot monopole. The wires are to go up to the middle of the pole so that the wires are not visible. There will be a 60'x60' compound on the property. It will be fenced in. Your Code requires a wooden fence. We don't do wooden fences. Your Code requires it. We will provide a wooden fence with no barbed wire or anything like that. Verizon Wireless proposes to install the antennas at the 116-foot antenna centerline. The top of the antennas would be at 120 feet at the top of the tower. You know about the prior application.

Mr. Astorino: This was the same carrier View Wireless that had an application before the Planning Board located at Transport Lane. Is that correct?

Scott Olson: Yes. Correct. We had a site plan special use application before you because the elevation of that property on Transport Lane was lower than the elevation on this property at Ruszkiewicz Lane. The tower at Transport Lane was proposed to be approximately 160 feet tall which required variances from the ZBA. We eliminated the variance requirement by coming down to 120 feet at this new location because it is at a higher elevation. The way that the initial application was received at first, I think there were members of the Board or the Town at first that suggest that we go to this current property on Ruszkiewicz Lane. It was previously approved about 18 years ago for a cell tower. I think it was Cellular One. For whatever reason, it did not get built. I believe everybody thought that this was a good location.

Mr. Astorino: I believe the Board asked for alternate locations because of the height of the other tower.

Scott Olson: Correct. This is a special permitted use that is before the Board approves anything. We know that is not happening tonight. We would have to demonstrate to you that we cannot put the antennas on an existing tall structure. We have in our application in

Exhibit 5 a detailed analysis by our RF Engineer. It is explained that there are no known tall structures that are 120 feet that we could put the antennas on. This is what new towers require. That would be something that Mike Musso from HDR would look at.

Mr. Astorino: We will discuss camouflaging and balloon tests.

Scott Olson: We could discuss that. Regarding camouflaging we have some issues. If you want to try to make it a camouflaged structure, it would then have to go higher. It would have to go higher for the camouflaging. Then there would be a need for a variance.

Mr. Astorino: We will discuss that issue.

Scott Olson: Yes. Absolutely. I talked about the Radio Frequency analysis. That would be something that the Board would have to review. We also have other professional reports that confirm that the emissions from the antennas will be far below what is legally permitted to be broadcast. For clarity purposes, these are radio signals. We can under our licenses emit certain signal strengths. We are 500 times below of what we are allowed to do.

Mr. Astorino: We will need all of that information brought to us for our Professionals to review in order to meet the criteria. Laura and Ted, is that correct?

Laura Barca: We have it. We are in the process of reviewing it.

Mr. Astorino: Ok.

Scott Olson. You have it. It is also important to know that the FCC has Regulations that talks about the emissions. Any antennas that are taller than 10 meters above the ground, it is basically categorially exempted. This will not interfere in anyway with local communication systems with residential electronics or anything like that. We operate at very distinct and specific frequencies that are licensed. They do not interfere with 911, local TV broadcast, or radio.

Mr. Astorino: John, I know we had discussed something before about a need for emergency services on these towers.

Mr. Bollenbach: That is something the Applicant could offer.

Mr. Astorino: You could have a space on the tower for emergency services if it is needed. I am not sure if it is needed. I am not sure if it is warranted in that area.

Scott Olson: That would be something that could be discussed if there is a need for it.

Mr. McConnell: When we were talking about the tower at Transport Lane there was interest in it for having space for emergency services.

Mr. Astorino: I thought that came up.

Scott Olson: I don't recall what I have told you.

Mr. Astorino: As Dennis had pointed out, I thought there was some interest in having it.

Scott Olson: We could talk about that. There are other carriers interested in putting their antennas on this tower at Ruszkiewicz Lane just like the last tower that was proposed at Transport Lane. AT&T and T-Mobile are still interested. They are not co-applicants right now. They have said that if this gets approved and built, then they would be there. I call it they will build it and everyone will come tower. Everyone know that it is needed somewhere in that area.

Ms. Little: Is there a maximum of co-locators that you could have on that tower?

Scott Olson: We are proposing to build a tower to accommodate a total of 4 co-locators. That is a total number of carriers that are out there. It would still accommodate 911 if that was the case. We show that on the plans.

Mr. Astorino: As far as the antenna, that would have to be reviewed by our Professionals to make sure they meet all of the specifications that are required.

Laura Barca: Yes. We have received everything except for the structural report.

Mr. McConnell: Would each co-locator have to make their own application?

Scott Olson: Correct. In terms of the structural analysis, there is no structural analysis to provide. It is a new tower. We did provide a letter that states that this will be built and designed to accommodate the current industry standards. The NYS Building Code does not regulate this. It is a free standing tower. We comply to the most current industry standards.

Mr. Astorino: Your Company will make sure when this tower is constructed, it would be constructed to the standards that it would not collapse or fall over. Is that correct?

Laura Barca: That would be a condition of the Planning Board's approval.

Mr. Astorino: We don't want the tower to fall over.

Scott Olson: I understand that you are concerned about that. We are a lot more concerned about that to. It will be done properly.

Ms. Little: On your proposed last site for the tower, the height was a concern, the area of congestion was a concern if that had fallen over many things could have been crushed including pedestrians and cars. Where is it located on the property in relation to the 120' in any direction?

Scott Olson: It would fall within the fall zone. We meet the proper setbacks.

Ms. Little: Ok.

Scott Olson: We are at the minimum 124 feet off the nearest property line which is the rear property line. We are also more than 200± feet off from the other property lines. The last thing that I have, I know this is the first time the Board has met with this. We are looking to move as fast as possible given the fact that we had to change course. We would like the Board to schedule a balloon test.

Mr. Astorino: We will discuss setting at site visit and balloon test. It would depend on weather permitting.

Scott Olson: Ok.

Mr. Astorino: Let me go through some of these comments. Some of these we are going to list for the record because we would need to do a site visit before we could go any further.

Comment #3: Conservation Board: no comments received

Comment #4: Architectural Review Board: no comments received

Comment #5: OCPD: 01/09/19 no advisory comments

Comment #6: Building Department: 12/26/18 open permit for fence (23975); permit needed for shed (04/05/12 title letter)

Mr. Astorino: That would be for the owner to take care of with the Building Department.

Comment #7: OCDPW: approval needed for access from Liberty Corners Road (County Route 88).

Scott Olson: I will have to look at the plans to make sure we would actually need that.

Comment #8: Applicant to obtain a 911 address for the proposed tower from the Town's 911 coordinator. The tower will require an address off of Liberty Corners Road (because that is where the access to the tower is located).

Scott Olson: Yes.

Comment #9: The planning board may decide to conduct a site inspection to this proposed project site.

Mr. Astorino: We will schedule that.

Comment #10: The planning board may wish to require that a "Balloon Test" be conducted for the full height of this proposed cell tower. §164-80.C(10). The Code requires this test be announced in the newspaper 14 days prior to the test. PB to determine key viewpoints.

Mr. Astorino: Laura and Ted, will you be in touch with the Applicant on that?

Laura Barca: Yes. You will want to email us with some possible dates. We will then confirm whatever date is available.

Scott Olson: Yes. We will do that.

Laura Barca: You might want to put in 2 backup dates. It is windy in Pine Island.

Scott Olson: Sure.

Mr. McConnell: Is a balloon test necessary?

Mr. Astorino: Yes. It is required.

Mr. McConnell: It is even required when the tower is not higher than what the Code permits?

Mr. Astorino: Yes.

Laura Barca: Yes.

Mr. Showalter: It is required for what reason?

Laura Barca: It is a proposed new cell tower.

Mr. Showalter: Does every new proposed cell tower require a balloon test?

Mr. Bollenbach: Yes.

Mr. Showalter: Ok.

Scott Olson: I will check the Code on that. Sometimes it would might say that the Planning Board may require it. I haven't memorized your Code.

Mr. Astorino: It states that the Town Code shall require it. Laura, set the balloon test up.

Laura Barca: Ok.

Mr. Astorino: Let's discuss scheduling a site visit. It's going to be dicey because of the weather. We could set a site visit for now. We will play it by ear as far as the weather goes.

Mr. Bollenbach: Do the site visit first. Then the Board could determine the location for the balloon test.

Mr. Astorino: We can't schedule a site visit before a Work Session yet. It would have to be done on a Saturday. How does Saturday, January 26, 2019 @ 9:00am work with the Board and Professionals?

Mr. McConnell: That is fine.

Mr. Showalter: Ok.

Mr. Kennedy: Ok.

Mr. Fink: Ok.

Laura Barca: Ok

Mr. Astorino: Ok. We will schedule the site visit for Saturday, January 26, 2019 @ 9:00am weather permitting. Connie would be our contact if the weather doesn't cooperate. We will let you know.

Scott Olson: Ok. Thank you.

Mr. McConnell: You had said this is a joint application. Is that because the owner of the Tower is not Verizon? Is Verizon going to be the first Lessee?

Scott Olson: Correct. When we have a Tower Company building a structure itself, we want to show you that it is not a spec tower. Verizon Wireless is going on the tower.

Mr. McConnell: Ok. I was not involved with any towers that was being constructed. I know in the past we had renewal issues with owners of cell towers not being as cooperative as we would like them to be in terms of providing information to us.

Mr. Astorino: Are you saying that Verizon Wireless is guaranteeing that they will go on the cell tower?

Scott Olson: Yes. Verizon is leasing space on the tower.

Mr. McConnell: Right. Verizon doesn't care to own the tower itself.

Mr. Astorino: After this tower is built, would they be leasing it or leasing it as this process goes forward?

Scott Olson: They are in the process of signing the lease right now.

Mr. Astorino: We would need a copy of the Lease Agreement provided to us.

Mr. McConnell: Right.

Ms. Little: We would also need the yearly RF Reports.

Mr. Astorino: That is standard procedure.

Ms. Little: I think what Dennis is saying is that sometimes they are not cooperative in getting us those reports. Is that correct?

Mr. McConnell: Yes.

Mr. Astorino: Then they would be in violation.

Mr. McConnell: I would like to know that they are viable as a standalone entity. I will defer to our Attorney as to what we would do to get comfort that the entity building it is an entity that would have the ability to be responsible and responsive to requests we might have at times of renewals of permits and etc...

Mr. Astorino: Are you talking about yearly renewals?

Mr. McConnell: Yes.

Scott Olson: Does a special use permit only last for a year?

Laura Barca: No. The special use permit is good for 5 years. The one-year is the annual RF Report.

Mr. McConnell: Ok.

Laura Barca: That also includes the annual maintenance agreement and structural report.

Mr. McConnell: Right.

Mr. Astorino: We were not getting those reports which put the tower owner in violation. We are trying to get some assurance that we would not have that issue.

Ms. Little: The other issue that we had was the maintenance and keeping the access clear. That will be something that we will definitely be looking at.

Mr. Astorino: This is a perfect time for that.

Mr. McConnell: While I understand why Verizon doesn't necessarily want to own the real estate or the tower itself, it is a level for difficulty for us at times. We would prefer for us at this initial stage if Verizon itself had an ownership interest because they would have the most to lose.

Scott Olson: I appreciate that. But that will not happen.

Mr. McConnell: I understand that. What I would like you to do is for you to take back to your contacts at Verizon is that this process might go quicker or easier if we had the ability to influence the owner of the cell tower to step up and demonstrate their being good citizens.

Scott Olson: The lease between the 2 parties have a provision in there that requires the tower owner to comply all laws, Local, State and Federal so that your local zoning would fall under that.

Mr. McConnell: Ok.

Scott Olson: I hear what you are saying.

Mr. Astorino: We will list Comment #11 through Comment #42 for the record. Do any Board members or Professionals have any other questions or comments? Just to let the audience know that this application is only at Step one. The site visit would be Step two. This is not a public hearing. There will be a time when everyone that is within 300-feet of the property would get notified of a public hearing that would give you an opportunity to speak. As of right now, if you asked any pertinent questions to us, we would not be able to give you an answer. We don't know. We are in the process of reviewing this application. We have not even seen the site yet. As you have heard, we have tentatively scheduled a site visit for Saturday, January 26, 2019 @ 9:00am at the property. After that, we will schedule a balloon test. We will then go from there. If anyone in the audience is willing to wait until the end of our agenda, we do have privilege of the floor for agenda items. If it is a simple question, we might be able to answer it. Other than that, we don't have much where we could give you answer at this point.

Mr. McConnell: We could answer questions about the procedure.

Mr. Astorino: Yes.

Scott Olson: I would like to make a request regarding scheduling a public hearing. We always liked to get the Planners and the public hearing all together. We would like for you to schedule us for a public hearing. We would like to try to get it all under one umbrella.

Mr. Astorino: We need to do a site visit first before we set anything for a public hearing. I want to know what I am talking about. I think the Board would agree with the same.

Scott Olson: Ok. There is 150-day timeframe.

Mr. Astorino: I know all about that.

Scott Olson: Ok.

Mr. Astorino: We are going to do the site visit first. Do any Board members or Professionals have any other questions?

Scott Olson: Ok. Thank you.

Comment #11: An agricultural data statement must be completed and submitted to show the farms with 500-ft of this property. Form submitted must be signed.

Comment #12: Plan sheets must be in compliance with the Town's stormwater regulations (164-47.10).

- a. the ground area in square feet and acres that will be disturbed (info is in the EAF)
- b. a description of the slope(s) of the site (info is in the EAF)

Comment #13: The limits of disturbance and the area of disturbance (in sf and acres) must be shown on the drawings.

Comment #14: Provide Emergency Service Plan and post contact information at the site for emergency purposes.

Comment #15: §164-77A.(3) Applicant to confirm that cell tower is not located within 250-ft of a designated historic structure or within 150-ft of a scenic road right-of-way.

Comment #16: §164-77.B (1), (2), and (3) The cell tower must comply with the location requirements.

- c. (1) The facility is not proposed to be on an existing structure.
- d. (2) Camouflage is not proposed (galvanized steel).
- e. (3) Complete. 01/16/19

Comment #17: §164-78.A Applicant to show/describe on drawings how this facility will be camouflaged. §164-79.A.(1)(a) or (b) The Board must determine if additional landscaping/screening should be installed and if the tower has been camouflaged by design. A Landscape plan shall be submitted §164-80.C(8). Actual color samples for materials of construction should be provided (§164-80.C(7)). Applicant proposes no camouflage. Applicant requests a waiver on the requirement for a Landscape Plan as the area is already surrounded by mature vegetation; lease area to be enclosed by a 6 ft high wood stockade fence and gate.

Comment #18: §164-78.C Applicant to clarify what noise levels will be at the base of the building closest to the tower, including standby power generation equipment. If a generator is proposed, applicant to add note to plan and provide specifications on the proposed generator model, including manufacturer noise assessment and sound attenuation features on the drawings. A Tectonic noise letter provides noise levels at generator, nearest property line and nearest residence. Dwg C-5 does include mfr noise assessment and sound attenuation features. Generator model details are on Dwg C-5.

Comment #19: §164-78.D Applicant to provide a Radio Frequency (RF) report, see also §164-79.C(1). The RF report includes an analysis at 51 ft agl, and should be amended to include a ground-level (6 ft agl) analysis.

Comment #20: §164-79.A.(1) and (4) The color of the towers (in this case, the tri-sector antenna system), cabinets, and associated accessory structures are required to be non-reflective; color samples must be submitted. The color scheme will be dependent on the monopole configuration (e.g., stealth tree or conventional monopole). A conventional monopole (galvanized steel) is proposed.

Comment #21: §164-79.A.(2) All lighting, including existing, must be in compliance with §164-43.4, where all lighting features are shielded/facing downward. The Statement of Intent indicates that lighting is proposed at the equipment platform, however, no details are provided in the Dwg set.

Comment #22: §164-79.A.(3)(a) All signage, including existing, must be in compliance with §164-43.1; Applicant to add note to document the type and locations of required FCC signage. FCC signage should be installed (if this application is approved) in accordance with applicable local, State, and Federal rules and regulations. Signage notes are on Sheet T-2, however, "FCC" signage is not mentioned. The locations of some signage is not provided. There are no signage specifications.

Comment #23: §164-79.A.(3)(b) Applicant to confirm if Danger-High Voltage signs are required/posted. There is a signage note in Sheet T-2, but need for signage has not been confirmed.

Comment #24: §164-79.A(4) Applicant must comply with equipment shelter requirements. The applicant is not proposing an equipment shelter. Additional specs should be provided for the equipment area including concrete pads, equipment cabinets, lighting, etc. Culvert, antenna, RRH, and OVP specs should also be provided. Quantity of OVPs to be provided.

Comment #25: §164-79.A(5) Applicant must comply with accessory structure requirements.

Comment #26: §164-79.B(1) Applicant to provide additional information to show that the proposed tower is not located within wetlands or wetland buffers, in endangered, threatened, or special concern species habitats, water bodies, historic, or archaeological sites. Depth to groundwater and needs for dewatering should be assessed.

Comment #27: §164-79.B(2) Applicant to clarify if hazardous materials will be used at this site.

Comment #28: §164-79.B(3) Applicant to clarify that any increase in stormwater runoff shall be contained on site.

Comment #29: §164-79.B(4) Applicant to confirm that noise is less than 50dB at the property line.

Comment #30: §164-79.C(2) Applicant to clarify security measures at this site, see also §164-80.C(4).

Comment #31: §164-79.C(3) Applicant to provide foundation design/report, see also §164-80.B(3). The final structural foundation design and report should be submitted as part of the final conditions of the planning board.

Comment #32: §164-80.B.(1). This special use application requires proof that the Applicant is a licensed carrier in the project area.

Comment #33: §164-80.B(4) Applicant to show that the facility will be fully automated and will require only occasional maintenance of the facility and site. A note shall be added to the plan.

Comment #34: §164-80.C(3) Applicant to show proposed locations of antennas, mounts, and equipment shelter. §164-80.C(6) Applicant to provide the materials of the proposed facility specified by generic type and specific treatment.

Comment #35: §164-80.C(5) Applicant to provide drawings showing full build-out of tower, including on the tower and on the ground. Drawings should include the addition of cross sections for a conventional monopole and a stealth tree monopole with a scenario for full build-out (four carriers).

Comment #36: §164-80.C(9) Applicant to show visual impact with before and after color photographs/simulations of key viewpoints.

Comment #37: Sheet C-1 shows overhead power and fiber connection to an existing pole on the opposite side of Liberty Corners Road; Applicant to revise plan to show all new utility connections to be underground (See note on Sheet 2).

Comment #38: Should the Town and the Applicant pursue a monopine option, drawings shall include details of the monopine. Details, such as branch density and taper should be included.

Comment #39: Declaration information for any the Agricultural Overlay District must be added to the plan.

Comment #40: Add a note to the plan: An annual access maintenance contract shall be submitted to the Town of Warwick Building Department by May 1st of each calendar year.

Comment #41: Certification of iron pins at the corners.

Comment #42: Payment of all fees.

Other Considerations:

1. **Continental Views Estate Subdivision** – Letter from Karen Emmerich, Lehman & Getz Engineering, addressed to the Planning Board dated 12/6/18 in regards to Continental Views Estate Subdivision – requesting 2nd Re-Approval of Final Approval + 6-Month Extension for a proposed 4-Lot subdivision, situated on tax parcel SBL #55-1-93; parcel located on the southwestern side of Route 17A 400 feet south of Route 17A, in the MT/CO zones, of the Town of Warwick. Conditional Final Approval was granted on 1/18/17. *The Applicant has stated that the 2nd Re-Approval and Extension is needed because the attorney is completing the required legal documents so that the plans can be signed. All other conditions of the approval has been addressed.* The 2nd Re-Approval of Final Approval becomes effective on 1/18/19. The 6-Month Extension becomes effective on 7/18/19.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering.

Mr. McConnell makes a motion on the Continental Views Estates application, granting “Re-Approval” of Final Approval + 6-Month Extension of a proposed 4-Lot subdivision, situated on tax parcel SBL # 55-1-93; parcel located on the southwestern side of State Hwy 17A 400 feet south of State Hwy 17A (1433 St. Hwy 17A), in the MT/CO zones, of the Town of

Warwick, County of Orange, State of New York, subject to conditions of Final Approval granted on 1/18/17.

The 2nd Re-Approval of Final Approval becomes effective on 1/18/19.

The 6-Month Extension becomes effective on 7/18/19.

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

2. **Pioneer Farm Subdivision** – Letter from Karen Emmerich addressed to the Planning Board, dated 1/7/19 in regards to the Pioneer Farm Subdivision – requesting to be set for a Final Public Hearing at the next available agenda.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering.

Karen Emmerich: We have dealt with large issues such as DOT approval, SHPO, and Environmental Review. The Village has offered or granted the request for water and sewer. We are working out that agreement for the 2 lots in the back. They are ready for a public hearing. We ask the Board to set us for a public hearing.

Ms. Little makes a motion to set the Pioneer Farm Subdivision application for a Final Public Hearing at the next available agenda.

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

3. Planning Board to discuss cancelling the 1/28/19-Work Session & 2/6/19-Planning Board Meeting.

Ms. Little makes a motion to cancel the 1/28/19-Work Session & 2/6/19- Planning Board Meeting.

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

4. Planning Board to discuss draft Zoning changes.

Mr. Astorino: Ted, could you summarize that for us quickly?

Mr. Fink: We have a draft of a Local Law. It is Local Law No. 1 of 2019. The Board was asked to prepare comments on the proposed Zoning Moratorium on the AP-O District. That was quite a while ago. We have been working on a series of different amendments which most of them but not all relate to farming, AP-O District and especially the ability of operating farms to be able to have festivals and that sort of thing. The document that you received you have a printed copy that may be very slightly different from the electronic one that you received yesterday. There was only one change made to that document. On Page 5 of the document where it states Article, IV Section 164-47.3 of the Zoning Law entitled

“Agricultural Protection Overlay District,” that section referred to seasonal Agri-Tourism permits. I discussed this with the Town Supervisor today. In order to avoid confusion with a use that is permitted only in the Community Business District (CB zone), that is referred to as an Agri-Tourism business. Supervisor Mike Sweeton thought that it would be better if we had a reference to an Agricultural Special Event permit rather than what you had seen which was an Agri-Tourism permit.

Mr. Astorino: I agree with that.

Mr. Fink: That was a clarification of the term. Nothing else changed in this document other than the reference from Agri-Tourism permit to Agricultural Special Event permit.

Mr. Astorino: Ok. This was what we had talked about previously. Is that correct?

Mr. Fink: Yes. Regarding to everything else here in this document it has to do with a number of changes with having to do with things like the Country Inn. We have that now permitted in the OI zone. The reason being is that hotel, motels, and spas are already permitted in the OI zone. It seemed to make sense to also allow that.

Mr. Showalter: Ted, could you define what a County Inn is?

Mr. Fink: It is a small hotel with up to 10 to 15 rooms. On Page 1, of the document there was a minor modification to the definition of Agri-Tourism where it is conducted for the enjoyment or education of the public and primarily promotes the sale, marketing, production, harvesting, or use of the products of the farm operation. There was also a change to examples of Agri-Tourism which includes farm-cation experiences which is a new way of talking about how people can have campsites what they call glamping. It has become very popular in the Hudson Valley on farms, forests and a whole variety of places for people to take their land and use it for these glamorous types of camping. Glamping is a combination of glamorous camping. There was a correction to the “Table of Bulk Requirements”. It goes back quite away approximately 20 years ago when General Code codified the “Table of Bulk Requirements” left out parenthesis in the note. That has been corrected. On Page 3, of the document where it talks about a farm market of less than 4,000 square feet where it adds the words wine, beer and distilled spirits in the “Special Conditions” where the types of products that they can sell. This is simply a reaction to NYS Agricultural Law which now defines a farm operation to include wineries, breweries, ciders, distilleries, etc... Based upon State Law there is not much you can do about it. You might as well recognize that these sort of things are going to happen in farm markets that are within an Ag District.

Mr. McConnell: Ted, do those spirits need to be connected to the land involved?

Mr. Fink: Yes. There is a whole guidance that NYS has on how it is considered as part of a farm operation. They have a series of guides now that the Department of Ag & Markets had come up with.

Mr. McConnell: The NYS Law referenced the origination being somewhere within the State or somewhere on the property itself. I know at one point NYS allowed for the sales it was stored near my office in SoHo that specialized in NYS wines that were from NYS farms. That was a change in the law. I wonder if this would allow whatever entity it is here in Warwick does the product wine, cider, etc...would have originated in some degree on that farm or is it just from NYS?

Mr. Fink: That is a good question. I don't have the answer now. I could get that answer for you.

Mr. McConnell: This whole thing concerns me from an enforcement standpoint. It needs to be clarified.

Mr. Astorino: I went to a class not too long ago that mentioned. I think there is some sort of percentage. Dennis, as you had pointed out there is the enforcement no matter how you twist it, it is what it is. If you are going to make wine and spirits, you can say that you are growing it. The State and County are 110% behind it. That means it is going to happen. Unfortunately if you like it or dislike it, it is a big boom for the State and County. They are pushing it.

Mr. McConnell: I get that.

Mr. Astorino: If the State is allowing them to do this under certain guidelines, does that supersede what we do? You can't deny it.

Mr. McConnell: You are missing the point that I am trying to make. I believe Ted got the point. Ted, you could send me an email explaining that.

Mr. Fink: Ok. On Page 3 of the document has to do with some new Subsections that were added to the "Special Conditions" that applies to farm markets 4,000 gross square feet or greater and farm markets less than 4,000 square feet that are already in existence. These would have to put in limitations having to do with a number of days that festivals can have that include outdoor music, no carnival-type rides, etc... It also has to do with the use of amplified sound producing devices and performance standards. It would also receive a temporary outdoor public gathering permit pursuant to Chapter 115 of the Town Code and only valid from 10:00 AM to 10:00 PM. on days of the festival.

Mr. McConnell: On Page 3, it states the number of on-arm festivals that include outdoor music do not exceed 12 days per year. On Page 4, it states the number of farm festivals do not exceed 5 days per year. What is the difference?

Mr. Fink: The difference there is the 12 per year would apply to the larger farm markets that are 4,000 square feet or greater and the smaller ones that are already in existence. New farm markets hence forward that are less than 4,000 square feet would be more limited in the number of days per year.

Mr. McConnell: Then I am seeing 24 days per year. I am not following this as closely as I would like to. On Page 4, at the top [5] it states On-site farm events of up to 249 attendees for arts, entertainment, weddings, craft shows, and other special occasions are allowed up to 24 days per year. I am confused. Is it 12, 24, or 5 days?

Mr. Fink: This would be a festival that was conducted and pursuant to Chapter 115 which means they would have to get a Town permit from the Town Board.

Mr. McConnell: Ok. That is on top of Page 4 pursuant to Chapter 115. I got that.

Mr. Fink: The next one has to do with Solar energy systems. This is the commercial large-scale Solar energy systems. One of the applicants that we have was confused about the maximum coverage about what was the area that was actually counted for determining maximum coverage and it is the fenced in area surrounding the solar panels. That was a one

sentence addition. That is located at the bottom of Page 4 of the document where it states that solar area shall be calculated based upon the fenced-in area surrounding the solar panels. That was a clarification. The last one on Page 5 has to do with Seasonal Agricultural Special Event Permits. These are for Agricultural properties located within the AP-O District qualifying area and which have not been designated by the Town Board to receive the special benefits as to what we call Agri-Tourism permits. It is a special seasonal permit that they could apply to the Building Department for. They would have to provide proof of liability insurance, adequate sanitary facilities and potable water supplies, etc... On top of Page 6, they may be subject to additional reasonable special conditions imposed by the Building Department, based upon unique circumstances or characteristics related to the farm property. It also states the ability of the Building Department to revoke any permits for any violations. Finally, the last section has to do with the continuation of the accommodations that the Town has made to previously approved subdivisions, site plans, and special use permits. This would continue to January 1, 2021. I have prepared a draft letter to the Town Board for the Planning Board's consideration. That is in your packets.

Mr. Astorino: Ok. Do any Board members have any comments?

Ms. Little: For the AP-O special event permits and the farm market new zoning, are these going to be applicable to currently existing businesses and AP-O only new going forward?

Mr. Fink: It would certainly be for anything new going forward. As far as the seasonal permits, that would also apply to any special event that a farmer would want to have. They would have to go to the Building Department for that.

Ms. Little: Ok. Established businesses who has been use to hosting events now would be subject to that. Is that correct?

Mr. Fink: Yes. They would have to come in for that.

Ms. Little: Ok.

Mr. Astorino: That makes sense.

Mr. McConnell: Regarding the glamping that you were talking about, is that picked up on Page 5 regarding the 4 tent sites?

Mr. Fink: Yes.

Mr. McConnell: Ok. I was just wondering about the glamping at some point might cross over into a campground. This is what is limiting it so that you don't end up with that there.

Mr. Fink: Correct.

Mr. Astorino: Yes. We don't need that.

Mr. Kennedy: What if it was a primary business of a farm to have weddings and now restricting the amount of weddings they could have?

Mr. Astorino: There was always a restriction of events per year. Do any Board members have any other questions or concerns? We will need a motion for a consensus on sending this to the Town Board with a positive recommendation.

Mr. McConnell makes a motion for a consensus on sending this to the Town Board with a Positive Recommendation.

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.

Greg DeBuck: I am a Pine Island resident. Regarding the Verizon Wireless cell tower in Pine Island, it doesn't state if it is a 4G or 5G application. That would open up a lot of different levels.

Mr. Astorino: Do you mean for the service level?

Greg DeBuck: Yes. The application should state if it is 4G or 5G. It is not stated here. That is a big deal.

Mr. Astorino: We will ask them.

Greg DeBuck: Regarding the SL zone, what does that mean?

Mr. Bollenbach: Suburban Low Density.

Greg DeBuck: Is a cell tower permitted in the SL zone?

Mr. Astorino: Yes.

Greg DeBuck: Ok. When you do your site visit, it is very steep there. I don't know where the access road would be.

Mr. Astorino: That is why we will be doing a site.

Greg DeBuck: Ok. Thank you.

Mr. MacDonald: What is your concern with either it being 4G or 5G?

Greg DeBuck: I am not an expert on it. 4G is currently what we use and have. The 5G is their next generation. If there is a tower that allows 5G on it, according to State or FCC regulations they could now blanket the Town with 5G. 5G is much smaller radius of their waves. It is more intense. Having 5G, you could watch a movie on your phone. It is a higher bandwidth but it is local. It would have to be on every third telephone pole. I am not an expert on it.

Mr. Astorino: The Town has a provision. They just can't come in and do that. I don't think the telephone poles are owned by the cell tower.

Ms. Little: Verizon has recently just dropped a lot of the 4G. If you have noticed, we have dead zones in Warwick that we did not have last year. The reason for that is they are in the process of converting from 4G to 5G. Where they had 5G that they put in, it does shrink the zone. It is a stronger signal in a smaller area.

Greg DeBuck: I am not an expert. I don't even know if 5G is in the area yet.

Mr. Astorino: We could find that out.

Mr. McConnell: 5G is involved with something that you would see as a buzz word that is an internet of things. That is where they are going to try to connect everything to the internet from your refrigerator to your car.

Greg DeBuck: Correct. That is from the consumer end of it.

Mr. McConnell: Yes. It is from the consumer end which requires more bandwidth than being able to carry over more data on the signal. They are still fighting it out technically as to who is going to be the lead on that. In the past, the USA has been the lead on that. It is looking like that 5G is going to be dominated by the Chinese. They are further advanced in their studies or in formulating pf standards and etc...

Mr. Astorino: We will ask the question. Is there anyone else wishing to address any of the agenda items?

Jerry Zimmerman: I am a resident of Pine Island. I want to add to what Greg had mentioned. I first want to apologize because when this first came up when the applicant was talking about Transport Lane, there was some literature out there that did reference 5G in the description of the service that was going to go onto the pole. Since that time when it was moved over to Ruskiewicz Lane the reference of 5G has disappeared.

Mr. Astorino: What literature are you referring to?

Jerry Zimmerman: I apologize. I didn't print it.

Mr. Astorino: That is fine. It really doesn't matter. That was a different application.

Jerry Zimmerman: There is a nightmare of confusion about that. The American Standards Association the professional standard that has been signed onto by all of them for 5G is very exacting in the way of what the service is. Both AT&T and Verizon have come up with their own versions of what they are calling 5G. It is not 5G. They are just putting a label on it. Words are words. You would have to be careful with what all of these outfits are talking about. The 5G that the Chinese are implementing way ahead of us that the FCC was so concerned that the Chinese was ahead of us that the FCC has already implemented a rule that said they wanted to encourage the implementation of the real 5G to such an extent that they wanted to avoid slowing down any process with Planning Boards and ZBA's. The FCC had said once there is an approval for a 5G plan, then the Wireless Companies would be able to blanket any municipally owned poles with micro towers that are necessary for the real 5G. What AT&T and Verizon have are halfway programs that are called 5G but are not which could be transmitted from a monopole which is currently sending out 4G. The concern is once this FCC rule once there is an approval of anything that describes 5G, then we are talking about the OEM thinking that they can go over the home rule and put in any micro towers they want and anywhere they want to.

Mr. Astorino: I don't find that to be true. I still think the Municipality has their zoning and regulations. Regarding the issue of them using utility poles that are owned by the Power Companies, I believe that is gone by the wayside. From what I have heard, there was a lot of throwback on that.

Jerry Zimmerman: This is an FCC rule.

Mr. Astorino: I understand that. You heard the Applicant talk about earlier that there is a timeclock. We have heard that before. We go about our business and do what we have to do. We have our Professionals that I am very confident in that could lead us down the right path. We make sure everything is done properly and we move forward. We are not intimidated by someone saying there is a timeclock. We move on.

Jerry Zimmerman: Thank you for all of that.

Mr. Astorino: No problem. Is there anyone else wishing to address any of the agenda items? Let the record show no further public comment.

Mr. McConnell makes a motion to adjourn the January 16, 2019 Planning Board Meeting.

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

