

Town of New Paltz Planning Board

Thursday, November 25, 2019

Final Meeting Minutes

Call to order by Chair Adele Ruger at 7:00pm

Attendees: Amy Cohen, Stana Weisburd, Adele Ruger, Lyle Nolan, Jane Schanberg, Amanda Gotto, Matt DiDonna,

Also Attending: PB Attorney Richard Golden, PB Engineer Andy Willingham and PB Architect Kurt Sunderland

Meeting Minutes

Chair Ruger asked for a motion to accept the November 14 minutes.

Motion 1 by Matt DiDonna. Motion 2 by Jane Schanberg. 4 present in favor, 3 abstained. Motion carried.

Public Comments

Amy Cohen read from her memo that was addressed to the Town Board, Supervisor, Planning Board Members, Planning Board Consultants, Planning Board Applicants and the Town Clerk. The memo is attached at the end of the minutes.

Application Review

PB 19-51 New Paltz Storage

Applicant Andrew Loyer and his architect, Scott Dutton approached the Board. Mr. Loyer noted that they had been working to come up with a more modern design that is more in line as to what Light Industrial buildings would be and also per comments from the Board, noting that they have spent time with the Board's architect Kurt Sunderland discussing design. Mr. Loyer stated they had lowered the overall building height 5 feet with the new design. Kurt Sunderland commented on how a gabled roof which had been previously discussed, couldn't be considered for the site because of space constraints. Mr. Loyer noted that the solar panels would be angled towards the east on the roof. After a short discussion, Board members gave positive comments on the new design, noting that it was a great example of what Light Industrial design was, and thanked Mr. Loyer for his flexibility and willingness to do something that wasn't his original concept. Mr. Dutton noted that with his software package he was able to show a projected 5 year 3D image of what the landscaping would look like on the site. Mr. Loyer commented that the area is not a dry area and that they would grow quickly. Mr. Dutton responded that the building's color on the rendering is true to color.

Amanda Gotto noted that the ENCB had no further comments as they felt their previously noted concerns were addressed in regard to the wetlands. Andy Willingham noted that he was fine with what has been addressed from his previous review. Mr. Loyer noted that the DEC has submitted their application for their wetlands permit, and was waiting on that. Chair Ruger asked about the landscape plan in regard to the trees, and Mr. Loyer noted the two trees chosen by his landscape designer will balance out, and will grow quickly. Chair Ruger asked about the size of the trees, which Andy Willingham noted that the landscape plan proposed is standard for the proposed size of the trees. Mr. Dutton noted that normally two story building would be concealed by the landscape plan, since this is a 3 story building, the 5 year 3D projected image is more accurate.

Attorney Golden noted that the next things to be done were to refer to Ulster County Planning Board, perform SEQRA, need to prepare the Part 2 EAF so the Board can make a determination of significance, then schedule the public hearing after determination of significance for the site plan is complete and filed, and schedule the public hearing for the wetlands application, and finally schedule the subdivision application which can be combined with the wetlands application which can be waived, as subdivision public hearings are mandated. Attorney Golden commented to wait to schedule the public hearing until you've completed the SEQRA with the determination of significance and if it's a neg dec (negative declaration) the Board then can go ahead and set the public hearing for the following meeting. Also noted that Andy Willingham will provide the Part 2 for the Board.

Attorney Golden also noted that the applicant has also requested waivers from a tree survey of significant trees on the plans and also for sidewalks, noting that there was an issue earlier in discussions if sidewalks were required, and noted that Stacy has weighed in and said that Henry Dubois is a collective street and therefore sidewalks are required but there is a provision for the Board to waive sidewalks if you don't want sidewalks here. He also noted that

the Board can also waive the tree survey of significant trees on the plans using reasoning that subdivision regulations as well as site plan regulations with respect to surveying large caliper trees to try to identify specimen trees so that any specimen tree can be maintained without cutting it down, noting that the Board can ask them to go ahead and do the survey which Mr. Loyer noted that they did survey the trees in the 3 acre area. Attorney Golden stated that the survey would be surveying significant trees not all the trees. Andy Willingham noted they would survey the disturbed area. Amy Cohen asked if they could do that tonight (waiving the tree survey). Attorney Golden stated they can do the waivers tonight along with the referral to Ulster county but cannot do is the SEQRA and the public hearings.

Chair Ruger asked if there were any discussion on the waivers. Matt DiDonna noted that how can we request sidewalks when there are no sidewalks on that street. Stana Weisburd commented that she'd like to know what the plans are for the changes for the bike lane. Andy Willingham noted that he had talked with the Supervisor that there is a grant, the latest plan is a 10 feet wide shared pedestrian and bike lane planned that is early still in the process, which he thought would be left up to the Town Board if the sidewalks were planned. Amy Cohen stated she's like to get more information on how the bike lane will affect the property. Amy Cohen noted that sidewalks would have to be maintained by the property owners (shoveling), wondering if property owners would be responsible or would New York State. Andy noted he didn't know. Stana Weisburd commented that she thought the bike lane would be the Town's responsibility. Matt DiDonna noted that regardless if we grant them a waiver we'd have to do it for everybody. Lyle Nolan noted that a new fire station is going in there and we don't know what the plan is, and he doesn't think sidewalks are out of the question, with the fire station and the apartments there too that it is likely for the future, adding if we are trying to encourage bicycles and pedestrians that could involve the public activities like at the fire station, then he would be reluctant to give up the sidewalks and hold off waiving them tonight to give more time to go through the other things. Board members agreed.

Attorney Golden noted that after discussion, the Board can waive the requirements for the site plan and subdivision for the tree surveys to the extent that they have not already been provided.

Motion 1 by Amanda Gotto to waive the requirements for the site plan and subdivision for the tree survey to the extent that they have not already been provided. Motion 2 by Stana Weisburd. All present in favor. Motion carried.

Attorney Golden discussed the referral to Ulster County Planning Board and that the EAF Part 1 and the most recent plans, and comments from consultants should be sent.

Motion 1 by Lyle Nolan to send to Ulster County Planning Board. Motion 2 by Amy Cohen. All present in favor. Motion carried.

Mr. Loyer noted he had a concern with the sidewalks and with it going into winter it could be months before the Town comes up with a definitive plan for the sidewalks and asked if there was a possibility of doing an approval contingent on complying with whatever the regulations are. Lyle Nolan stated that they could. Chair Ruger stated that they still had a little more to go. Lyle Nolan also noted he brought it up because with the new fire station going in they may connect a sidewalk and it wouldn't be an isolated but would like to reserve that ability. Chair Ruger stated she felt it was still too early to do that, and hopefully once through the process if we still don't know we will get some kind of contingency but for right now we'll just wait and see on that as they go through this. Amy Cohen asked if the Board should reach out to the Town or the State on this. Chair Ruger noted that the Town had hired people to work on Henry Dubois and she would see how far along they are on that. Andy Willingham noted that the Town received a grant for the full length of Henry Dubois with 2 way pedestrian and bike access, with 1 ten foot lane, but wasn't sure if sidewalks on both sides.

Andy Willingham to prepare the Part 2. With no further questions, Mr. Loyer thanked the Board.

Administrative Discussion

Jansen Road / Homeland Towers Proposed Site Plan

David Kenny, Attorney from Snyder & Snyder LLP, and Vincent Xavier, Regional Manager from Homeland Towers, were in attendance for the Board's discussion.

Chair Ruger asked Attorney Golden to give some explanation into the discussion even there is no application yet before the Board. Attorney Golden commented that the applicant had asked for this discussion before the Board to get input for a few things in regard to the cell tower applications, and this one in particular is being proposed in the zoning where it is not allowed. Amanda Gotto asked if this was considered a Minor or Major Facility as per the Town Code. Attorney Golden stated he had not looked at it yet for that purpose. Continuing, Attorney Golden noted that the applicant is seeking to interpret the code to put the facility where it is proposed as being okay but he and Stacy do not interpret the code that way and it is outside where they would be permitted to go and would have to go to the ZBA for a Use Variance from the Zoning Board of Appeals. Attorney Golden added that Use Variance are typically impossible

to get, however there is argument that cell towers, like a utility, and utilities typically have a different standard for use variance than every other type of application so it's a more relaxed standard so it is within the realm of possibilities for them to get a Use Variance from the ZBA when typically under the use standard would be virtually impossible to get, which may be a route that they (the applicant) would have to take. Attorney Golden noted that the Board hadn't really dealt with cell towers too much, especially on private land, and that the Board's discretion has been restricted both in the time frame you are allowed to make these discretions as well as the substance of your discretion by Federal Law, as the telecommunications act over the years as well as certain regulatory decisions has significantly reduced your ability to weigh in on certain aspect and restrict your ability on how your review an application for a cell tower and it is just the way it is with Federal Law, and cannot be tied in local administrative burdens, stating to the Board that they would need to work around the confines of what the Federal Law allows the Board to do. Attorney Golden also noted that timing, which is designated informally as a shock clock which is a time frame in which you would make your determinations, and that shock clock doesn't begin until they have a complete application. Attorney Golden commented that the Board should lean heavily on their wireless consultant, and weighs heavily on a need for a cell tower, and they must demonstrate a need for a cell tower by the applicant. Attorney Golden noted that the Town had approved for Mike Musso as a wireless consultant, and he noted he is very good but very busy. Chair Ruger commented that he was very busy, and wasn't sure if the Board could get him, so noted that they would need to see if the Board could get him or look for someone else once they get the application.

Attorney Golden concluded his advice to the Board by telling them to think about wireless towers in the way the Board does a normal review both subsequently as well as timing, and that they should consider if it's in the right zone or they need to get a variance, they still would need to go through the Special Permit process, likely a public hearing will be scheduled, and the Board would deal with issues with respect to visual impacts, and then the Board would make a determination as to whether or not it is typical cell tower or whether it's a monopole or stealth pole, with input on those types of issues. Chair Ruger asked if the clock stopped if they need a variance. Attorney Golden stated the application is not considered complete until it complies with zoning, so that would be an element of incompleteness. Attorney Kenny noted that they would file for a variance with the ZBA at the same time they'd file an application to the Board. Attorney Golden explained the Board could continue reviewing the application while waiting on the ZBA but the Board cannot approve it until there's a ZBA response. Attorney Golden advised the Board to go ahead assuming a use variance is needed, continue to review and bring the wireless consultant on board.

Chair Ruger asked if pre-application escrow can be set. Attorney Golden stated that yes they could set it. Mr. Xavier stated they could pay the escrow when they file the application to get the wireless consultant started. Attorney Golden noted that the applicant is really looking at this point for your viewpoints to assist them.

Attorney Kenny noted that is exactly why they were there, and looking at the maps, and considering they have limited local knowledge of the area, and wanted to involve the Board with any ground points for the balloon tests, but also wanted to set a date for the balloon tests possibly in December, and give the Board the opportunity to drive around and see the balloon floated on a specific date. Attorney Golden advised the Board not to do the balloon test until their application is in and at least a preliminary review from the wireless consultant.

Lyle Nolan questioned whether the access road was through the wetlands buffer. Mr. Xavier noted that the tower itself is outside the buffer area but fencing enclosure will go into the buffer will need a permit. Lyle Nolan noted that there wasn't enough information yet for them to determine if the wetlands inspector would be needed.

Mr. Xavier stated their goal is get onto the January 13 agenda. Matt DiDonna asked if it was a commercial structure in a residential area. That's outside 150 feet outside any zone, so there's more than one variance. Attorney Kenny stated that only one variance was needed because the Town's local law for wireless communication has a section that has specific setbacks. Matt DiDonna expressed concern that property value may decrease if there's a cell tower across the street that wasn't there before. Attorney Kenny noted the concerns as it is a residential area but noted that the aesthetics of the area plus it being a public utility the fact that they are trying to balance the hardships (in making a 911 call). Chair Ruger stated that no one was prepared for a balloon test since there's no application. Mr. Xavier explained the maps that he provided to the Board. Lyle Nolan asked if the tower would have a red light on top, and Mr. Xavier stated that no lighting is required. Amy Cohen asked if cell towers have any negative health effects. Mr. Xavier stated that no and part of their submission they do is for SEC compliance report where the Federal Government sets a threshold for the maximum permissible exposure level or MPP, then they would submit a report that shows not just Verizon but with the potential of the future carriers fully loaded as to what the maximum permissible exposure levels, noting that their towers fully loaded come out 5% under the fully loaded maximum. Attorney Golden noted that this is something else your wireless consultant will analyze and look at. Lyle Nolan expressed concern on upgrading the existing towers, and how control could be lost (by the town). Amy Cohen asked for pointers where they can find read more about the effects. Attorney Golden explained that the wireless consultant will do that. Mr. Xavier suggested the American Cancer Society has a whole section on cell towers. Amy Cohen stated she wanted to understand how some towers could cause cancer, but theirs does not, and just wants to

understand that. Attorney Golden commented that he and the Building Inspector both felt that they would need to put it in a zone and would need a Use Variance.

Chair Ruger noted that this is too early for the Board, and to give them a couple of weeks to look at this.

299 Gateway Rezoning Law

Michael Zierler discussed with the Board what he felt were the next steps to address some of the comments from the Board after the rezoning law was put in place.

2020 Meeting Calendar

2020 Meeting Calendar was reviewed by the Board. Requests were made to change **Conceptuals and Briefings** time to 6:45pm, change **Application Reviews** time to 7:00pm, and find an alternate date for the September 30 date due to Yom Kippur holiday.

Chair Ruger asked Pat to schedule the Friedlander site visit to include Mark Carabetta on December 3 or 9th around 3:30.

Amanda Gotto discussed the annual requirement for the Wetlands Report for the Town Board with a wetland status in regard to enforcement and that the draft be reviewed at the 12/9 meeting and be ready to submit to them.

Motion 1 by Adele Ruger to adjourn. Motion 2 by Jane Schanberg. All present in favor. Motion carried.

Meeting adjourned at 9:05pm.