



**TOWN OF SAUGERTIES
ZONING BOARD OF APPEALS**
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August 3, 2020

Due to unexpected technical difficulties, there was no recording made of this remote meeting.

WebEx Meeting Minutes

Present: Jeanne Goldberg, Henry Rua, Patti Kelly, Joe Mayone, Tim Scott & Holly Strutt, Alternate

Also Present: Paul Andreassen: Town Board Liaison, Scott Olson: Attorney Young Summer LLC, Sara Coleman: Aerosmith, Brett Buggeln: Tarpon Towers, Mike Crosby: Verizon Engineer, Ronald Graiff: ZBA Engineer, George Redder: ZBA Attorney, Dan Shuster: Town Planner, Kevin Freeman: Zoning Board Secretary

- Jeanne called the meeting to order
- Jeanne took roll call and, with full attendance, announced a quorum was reached
- Jeanne asked Holly Strutt to participate as a full member for the Public Hearings since she was present for the March meeting. Since Henry Rua was absent for the initial 2020 Verizon meetings, he will not vote on this appeal.
- Jeanne announced the function of the ZBA to the public.

Old Business:

**Tarpon Towers II, LLC & Verizon Wireless
RE: Mount Marion Fire Department
766 Kings Highway
Mt. Marion, NY 12456
File #: 19-0006
File #: 19-0007
SBL #: 28.4-11-13.100**

Jeanne verified that Verizon had again sent evidence of complying with the certified mail notifications to property owners within 500 feet of the Mt. Marion fire department property. She also stated that the ZBA had placed notices of the meeting in Hudson Valley One, on Channel 23 and on the Town/ZBA website.

Jeanne opened the hearing to the public for questions and comments.

Tamara Schuppin read from her statements and studies she had forwarded to the board concerning the legality of applying the precedent of the Monroe Decision in that Verizon was a commercial entity and not quasi-public.

Kimberly Richter asked that an alternate location be considered such as the top of Overlook.

Angelo Zani was concerned for people and wildlife in the vicinity of the proposed tower and asked if there were plans in case of lightning strikes. He referenced several cancer studies. He also questioned the noise from the tower. Mr Olson spoke to the potential noise complaint, saying the generator was only used in emergencies and in regular testing. He answered that the generator was estimated to be 40dba at the nearest residence compared to 60dba for normal conversation. Angelo asked about maintenance and Mr Buggeln said they maintain monthly in this region from April to October.

Henry asked about the Fire Department being responsible for the cable to the tower equipment. Olson said that the Department was receiving benefits and will receive rent-free space on the tower.

Ron Graiff asked questions about the lease and the assignment between Tarpon and Verizon and the impact of lease conditions on the Fire Department. Olson said that the hearing was about the tower, not the contents of the lease agreement.

Doug and Gina Pierson asked if the tower would enjoy tax-free status. Dan Shuster said he would investigate the arrangement made with the Centerville tower which is on fire department property. The Piersons were also concerned about the ability of home buyers in the area being capable of receiving FHA loans given that towers are a negative in their determination in granting mortgages. Patti commented that she had looked on the FHA website after learning about this concern, and, indeed, cell towers do have an impact on FHA mortgaged homes in the "fall zones" of cell towers.

Jay Mooers asked about safety concerns pertaining to 5G and also expressed concern about the impact of the cell tower on home values. Olson assured him that the proposed call tower is not 5G.

After all questions by member of the public asked their initial questions, Jeanne opened it up to ZBA board members. She began by telling Mr. Olson that both the Area and Use Variances that had been submitted in the May 2019 application were not notarized., as required. Olson said he would take care of that and re-send them. Patti also reminded Olson that he had agreed to remove all references in the application to the ZBA suggesting or recommending the Mt. Marion Fire House as a site for the cell tower since those statements were false. She asked that he send a corrected application to the ZBA for the permanent file. He said he would do so.

Patti asked Mr. Buggeln to confirm Tarpon Tower's company policy to make its facilities available rent free to emergency services such as fire, rescue and police for collocation of their equipment as stated in his Dec. 3, 2019 letter to Mr. Olson. He said that was true. Patti asked if that would still be true even if the tower was not approved for the Mt. Marion firehouse, but at another location close to the firehouse. He said yes. Patti asked him about Tarpon's policy that "any cost of equipment, installation, and utilities are borne by the emergency services provider." He said that was also correct, but that he would provide the installation for free, in this case, if the Fire Dep't. got him all their equipment by the time he needed to get the installation done. He reiterated that his company just builds the towers and doesn't get involved in any of the more contentious issues associated with the project.

Patti asked Mr. Olson, for the record, if he was the attorney for Tarpon Towers, as well as the attorney for Verizon. He said yes.

Patti asked Olson why the application states that the tower will be collocation of 12 panel antennas on 3 separate antenna frames (4 antennas per frame) at a height of 11' inclusive of related equipment, whereas the FCC compliance report prepared by Millennium Engineering says there will be a total of 6 antennas. Mr. Olson said he would look at that, but stated with assurance that the exposure limits wouldn't be impacted because the exposure was so low.

Patti asked Mike Crosby several questions from a report he wrote that was included in the Dec. 20th 2019 Supplemental forwarded to the ZBA from Mr. Olson. In Tab 1 page 2, she asked why he responded to a question the ZBA asked about the minimum height necessary for the proposed site by saying "The proposed tower height of 116' Antenna Center Line is the minimum. Verizon has already compromised the desired/designed ACL of 150'-180'." Patti asked him if the tower was compromised because of the limitations of your chosen firehouse location, why didn't you seek out alternative sites where you can build a higher tower? Crosby responded that there was no compromise, and this tower location can provide what they need. Patti reminded him that it was he who used the term "compromised" from the desired ACL.

Patti went on to ask Mr. Crosby about his answer to the next ZBA statement about the proposed tower still not addressing the Rt. 32 corridor to which Crosby wrote "The proposed site (especially at the relatively low ACL of 116') cannot provide dominant coverage in the Rt. 32 area.... Verizon is actively working to resolve this area with other solutions that will complement the Glasco Tpke.-187 project." Patti asked Mr. Crosby what other solutions he had in mind to address the coverage issues and if any of those solutions included another cell tower in Mt. Marion. Mr. Crosby said there are no solutions being considered, and he was mistakenly referencing Rt. 32 in the northern part of Saugerties. Patti asked why he would do that when in the application for the Mt. Marion firehouse, coverage refers specifically to the Glasco Turnpike -Rt. 32 corridor. Crosby said he didn't realize they were the same thing and he was talking about solutions in a different area.

Patti asked Mr. Crosby when he first did the RF simulation for Industrial Dr. He said early 2019. She asked why, then, it was not included in the May, 2019 application along with the other alternatives that were rejected. Crosby responded because it wasn't in the search ring. Patti asked why then he bothered to do that simulation at all. Crosby responded because the ZBA had questioned why the industrial zone wasn't explored as a site for the tower during their first meeting.

Referring to the Supplement to the Site Selection Analysis submitted by Sara Colman of Aerosmith Development in Tab 3, Patti asked Mr. Crosby if he was the Verizon Radio Frequency Design Engineer who forwarded to Aerosmith the 'search area for the new site'. He said he was. She asked if he knew when he submitted that. He couldn't remember. She then asked Ms. Colman who or what was "site acquisition" as referenced on page two of her report. She responded that she was site acquisition consultant and her company's job was to evaluate the search area she was given, identify suitable candidates including how they fit into our zoning ordinance, and develop the search ring. Patti asked her when that was completed. She didn't remember the specific date, but said she would get back to the ZBA with that. Patti asked if the zoning criteria she used was the list of priority facility types from type 1 through type 5 which give preference, in descending order, to the location and design of cell towers. She answered yes. Patti asked if it would be correct to say you were looking to avoid a type 5 which is a new commercial cell tower on a new site. Ms. Colman said yes. Patti noted that Ms. Colman's report stated that there 26 parcels that fit the RF criteria within the search area, with 21 of those being too small to host a telecommunications facility because they would not meet the tower fall zone setback, and they were not pursued. She asked Ms. Colman what was considered too small, considering the selected site also does

not meet the setback requirements. Ms. Colman did not answer that question, but responded that some were zoned residential and all would have required building a type 5 facility. Patti asked Ms. Colman why, after the firehouse property was selected only because it had an existing tower and offered the potential for collocation, it wasn't dismissed after learning the tower was not structurally capable of being used by Verizon. And, why weren't the remaining 4 properties that were deemed suitable as potential candidates after review of their current uses and sizes, dismissed out of hand and not further evaluated? Ms. Colman said while the firehouse collocation would have been a type 3 facility, when it didn't work out it became a type 4 facility, and the other unevaluated properties would have been type 5 facilities which they wanted to avoid. Patti responded that building a new cell tower on the 50' by 30' leased property at the firehouse would be a type 5 facility. Mr. Olson challenged that assumption saying he believed it was a type 4 because another tower is on the firehouse property, and some of the other remaining properties that went unevaluated were residential.

Patti said even Mr. Buggeln, the builder of the tower, listed the cell tower as a type 5 facility in his application to the building inspector. She also reminded Mr. Olson that the fire house is zoned residential hamlet, and the firehouse tower is in no way comparable to the type of tower that Tarpon would be constructing. She requested information on the 4 properties that had not been evaluated, including address, size, and location.

Tim followed up by asking if a study had been done to determine whether or not the sites referred to by Patti were actually unfit or if it was just assumed due to parcel size. Mr. Crosby said to refer back to one of the coverage maps.

Jeanne made the motion that the application is not yet complete because some of the information that the Board has requested, and continues to request, is lacking. Patti seconded. The motion passed without opposition.

Holly motioned that the Public Hearing be kept open for next session. Tim seconded. The motion passed.

Jeanne said she would contact Mr. Olson within the week if another mailing of certified letters needed to go out.

Motion to close made by Tim, Patti seconded. Passed unanimously.

Meeting adjourned at 10:00 pm.

Respectfully Submitted,
Kevin Freeman
ZBA Secretary