

Town of Union Planning Board Minutes

Tuesday, April 10, 2018

A regular meeting of the Town of Union Planning Board was held Tuesday, April 10, 2018, at the Town of Union Office Building, 3111 East Main Street, Endwell, New York.

Members present: L. Miller, L. Cicciarelli, S. McLain, T. Crowley,
S. Daglio, M. Jaros

Members absent: S. Forster

Others present: Marina Lane, Bill Stewart, Coleman Burke, Jared Lusk,
Andrew De Nardis

A. CALL TO ORDER

Chairman Miller opened the meeting of the Planning Board at 7:00 pm.

B. MEETING MINUTES

- Page 1, Change the spelling of "Tevisani" to "Trevisani" under Others Present.

1. Acceptance of March 13, 2018 Meeting Minutes

Chairman Miller asked for a motion to accept the March 13, 2018, Meeting Minutes, as amended.

Motion Made: S. Daglio

Motion Seconded: T. Crowley

MOTION: Acceptance of the March 13, 2018, Meeting Minutes, as amended.

VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain,
T. Crowley, S. Daglio, M. Jaros

Opposed: None

Abstained: None

Motion Carried

C. Tarpon Towers II / Verizon Wireless, 11 Frey Avenue, J. Lusk

Special Permit for Cellular Tower

1. Close the Public Hearing for a Cellular Tower; Vote on Special Permit at Planning Board's Discretion

Ms. Lane summarized continued comments and questions received during the month as a part of the Special Permit public hearing. Mr. Dinunzio, who had also been present at the opening of the public hearing in March, submitted a few more questions pertaining to the selection of the site for the

new tower. Ms. Lane answered them and Chairman Miller closed the public hearing at 7:02 pm.

Ms. Lane then read her staff memorandum to the Planning Board. Nixon Peabody, on behalf of Tarpon Tower II, LLC and Bell Atlantic Mobile Systems of Allentown, Inc. ("Verizon Wireless"), submitted an application to construct a new telecommunications facility at 11 Frey Avenue, on land owned by DTRT Endicott Pipe LLC. The 140-foot monopole will initially be used only by Verizon Wireless, but has the capacity to hold up to three additional cellular carriers in the future. The property is zoned Industrial (I) and the cell tower is permitted by a Special Permit from the Planning Board. No setbacks are required, as the fall zone is entirely within the same property. This includes sufficient space for the additional 4-foot lightning rod.

Verizon Wireless is a public utility under NY Law and is licensed by the Federal Communications Commission. Communities are required to permit telecommunication facilities as long as the utility (1) demonstrates the need for the project to deliver reliable service to the area; and (2) demonstrates that the project, as proposed, is the least intrusive method of delivering the service while in an optimal location for such. The special permit review examines the submittal to ensure that such efforts have been made. The project site was selected because the property is in a preferred zoning district (I), has other industrial structures and uses on the lot, and meets the setback requirements. The proposed location falls within the search ring for radio frequency transmissions to allow reliable service to the West Endicott service area in a manner that coordinates transmissions with nearby towers that form the network that services the area in and around the Town of Union.

On Tuesday, October 10, 2017, the Planning Board declared Lead Agency and the project a Type I Action. The Planning Board approved the Negative Declaration under SEQRA on March 13, 2018, for the Special Permit and Site Plan. A separate N.E.P.A. review, conducted by the applicant and submitted to support Part 1 of the E.A.F., also found no significant impacts. A 239-Review was required as the project property is within 500 feet of State Route 17C and the Village of Endicott. No concerns were reported by the Village of Endicott other than to confirm that the Tri-Cities Airport and FAA had been consulted. The FAA reviewed the proposal, and subsequently made a Determination of No Hazard. Broome County Planning advised that the applicants be informed about their location in the Preliminary 100-year floodplain, and offered several recommendations regarding the site plan. A Stormwater Pollution Prevention Plan was not required because the area to be disturbed is less than an acre.

The Planning Department recommends approval of the Special Permit with the following stipulations:

- A. Should ownership or management of the tower change, the new owner or manager shall notify the Town of Union Planning Department within one month.
- B. Aesthetics
 - Telecommunications facilities shall be located and buffered to the maximum extent that is practical and technologically feasible to help ensure compatibility with the surrounding land uses.
 - 1. The proposed tower shall be a monopole with a galvanized finish or painted a dull grey.
 - 2. The proposed tower shall not be illuminated. Proposed lighting on the equipment pad shall continue as proposed. Any proposed new lighting shall first be submitted to the Code Enforcement Officer for review and approval.
 - 3. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.
 - 4. No tower shall contain any signs or advertising devices. Appropriate signage indicating ownership of the facility and phone numbers to call in case of emergency shall be posted on the perimeter fence.
- C. Traffic, access, parking, and safety.
 - 1. The tower shall include anti-climbing devices for a minimum of 25 feet extending above ground level.
 - 2. Access to the tower and accessory equipment pad shall be through a locked gate.
- D. The telecommunications facility shall not be modified without the issuance of site plan approval and a subsequent building permit, and such other permits or approvals as are prescribed by the Code of the Town of Union.
 - 1. Co-located/existing structure antennas and modifications to existing towers/antennas; approvals and bulk requirements.

(1) Approvals. Minor site plan approval and a building permit shall be required, but no special use permit is required. The minor site plan application shall include:

 - (a) A structural analysis/report, certified by a New York State-licensed professional engineer, verifying the ability of the structure to handle the antenna.
 - (b) Certification by a qualified radio frequency engineer (signed and sealed by a New York State-licensed

professional engineer) that the cumulative emissions from all antennas proposed to be located at the proposed site meet federal guidelines.

(c) Treated as an unlisted action under SEQR unless it meets the definition for a TYPE 1 action; appropriate environmental form should be submitted.

(d) Proof of owner consent authorizing the modification.

(2) Bulk requirements. The height of the new antenna shall extend no more than 20 feet above the height of the original existing structure. The antenna and any mounting structure and related equipment shall be integrated into said structure in such a manner as to minimize its visual impact to the greatest extent practicable.

E. Radio Frequency; inspections.

The telecommunications antenna will be operated only at Federal Communications Commission (FCC) designated frequencies and power levels and/or Environmental Protection Agency (EPA) technical exposure limits, per Town Code 186-4D.

F. Structural safety and verification.

The proposed tower shall be maintained in good order and repair. Tarpon Towers II, LLC shall submit records of maintenance to the Building Official as it is done each year per Town Code 186-4G and H.

G. Removal of tower and demolition bonding. (Code 186-4F)

Tarpon Towers II, LLC shall remove the tower if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months. Tarpon Towers II, LLC shall provide an appropriate and adequate demolition bond for the purpose of removing the telecommunications facility and restoration of the land in case the applicant fails to do so as required above. The sufficiency of the demolition bond shall be confirmed at least every five years by the analysis and report of the cost of removal and property restoration, to be performed by a New York State licensed professional engineer, the cost of same to be borne by Tarpon Towers II, LLC. If said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs, within ten (10) days of applicant's report. Failure to keep the bond in force shall be a violation of the special permit and site plan conditional approval.

H. Tarpon Towers II, LLC shall allow other wireless

communications to co-locate on its tower.

Mr. Jaros asked how Verizon was able to determine that some sites were inappropriate although the Village of Endicott never responded to Verizon's inquiries. Mr. Lusk noted that an agent comes out and contacts identified site owners and at the same time a cell site candidate review is done. Both reports are sent back to the RF engineer, who looks at both lists and chooses the site that is the highest on the list by radio frequency design. When asked about the availability of Round Top Park, Mr. Lusk explained that to lease property in a park requires that a municipality apply to the state legislature to get approval to alienate the parkland for the tower, which is a process that most municipalities do not wish to go through. In addition, that particular site was not beneficial for enhanced service.

Ms. Lane said that the project had been through several rigorous environmental reviews and the applicants have been very cooperative with the Town in complying with the requirements for the cell tower. Mr. Jaros stated that he understands that the Planning Board has to weigh the greater good for the greatest number of people when making their decisions, but he noted that even if the tower had been moved one hundred yards closer to LaTourette Lane, it probably would have alleviated the neighbors' concerns. Mr. Cicciarelli responded that the Planning Board sympathizes with residents in the neighborhood but that the Board had done their due diligence in evaluating the project. Ms. McLain also commented that all of us have become accustomed to power lines in our neighborhoods.

Mr. Lusk stated that Verizon tries to be very thorough when reviewing each site. The fact that the Village of Endicott did not respond was not the only factor that was considered in the site selection process. As an example, Mr. Lusk noted that the golf course in Endicott was not chosen. Because of the wetlands, the fairways and greens on the site, there was no place that the tower could be placed. While the Village of Endicott did not respond to the written communications regarding some sites, Verizon's radio frequency engineers analyzed each site in the Village so that the public would have a complete picture of the suitability of each site. That analysis is included in the application.

Mr. Lusk also questioned the height stipulation that new antennas shall not extend 15 feet above the height of the original structure. Federal law allows new antennas to be added that are either 10% of the original tower height or 20 feet, whichever is more. To be consistent with the standard set by federal law, Ms. Lane changed the wording in the requirement to 20 feet. Mr. Crowley agreed that Ms. Lane should change the height requirement with the caveat that the Town Attorney should verify the change. Mr. Cicciarelli also felt that it would be better to be uniform with the federal mandate. Mr. Lusk will forward information about "An Eligible Facilities Request" to Ms. Lane so that she can discuss this change with the Town Attorney.

Chairman Miller asked for a motion to approve the Special Permit for a Telecommunications Facility at 11 Frey Avenue, with stipulations.

Motion Made: L. Cicciarelli
Motion Seconded: M. Jaros
MOTION: Approval of the Special Permit for a telecommunications facility at 11 Frey Avenue, with stipulations.
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Daglio, M. Jaros
Opposed: None
Abstained: None
Motion Carried

2. Pending Special Permit Approval: Site Plan Review

Ms. Lane summarized her staff report for the site plan review. The project location is in the 500-year floodplain, and does not require a special permit for floodplain development. Recent floods in 2006 and 2011 rose to approximately 822 feet above sea level. Therefore, per the most recent site plan, the equipment platform shall be elevated so that the top of the platform is two feet higher than the most recent flood. The tower and raised platform will not impact base flood elevations.

One parking space is required for the occasional site visit by maintenance personnel. As the driveway is rarely used after the tower has been constructed, the Town requires gravel to stabilize the access in order to minimize an increased rate of stormwater runoff. Any stormwater will be absorbed into the surrounding natural environment.

The Planning Department recommends approval of the Site Plan with the following stipulations:

1. Erosion control measures shall be installed and monitored during the construction period.
2. Construction shall take place only between the hours of 8:00 am and 5:00 pm, Monday through Friday, as stated on the submitted environmental assessment form.
3. The title block on all sheets of the site plan shall have the name "Crestview Heights" changed to "West Endicott" to minimize confusion in the future.
4. A check for \$250 made out to the Town of Union for the site plan review fee shall be submitted prior to the issuance of a building permit.
5. No building permit shall be issued until the letters of approval have

been signed and returned to the Town, acknowledging the stipulations of approval. This includes letters to Tarpon Towers II, LLC and Verizon Wireless.

6. The applicants shall be required to acknowledge all of the above stipulations, in writing, prior to the issuance of a building permit. The applicants agree to construct the project in strict accordance with the site plan approved by the Planning Board. Should any applicant change the site plan once it has been approved by the Planning Board, even if by petition to the Town's Zoning Board of Appeals, the site plan approval will become null and void and the applicant must resubmit a new site plan to the Town of Union Planning Board.

Chairman Miller then asked for a motion to approve the Site Plan for a Telecommunications Facility at 11 Frey Avenue, with stipulations.

Motion Made:	T. Crowley
Motion Seconded:	L. Cicciarelli
MOTION:	Motion to approve the Site Plan for Tarpon Towers II / Verizon Wireless site plan for a telecommunications facility located at 11 Frey Avenue, with stipulations.
VOTE:	In Favor: L. Miller, L. Cicciarelli, McLain, T. Crowley, S. Daglio, M. Jaros Opposed: None Abstained: None Motion Carried

**D. Olivander's Auction, 3220 Lawndale Street; B. Stewart
Special Permit for Outdoor Storage**

1. SEQRA Determination

Mr. Stewart submitted an application for outdoor storage at 3220 Lawndale Street. Ms. Lane reviewed Part 2 of the EAF and noted that all of the potential impacts were small to none. Per the Determination of Significance, the property is 0.37 acres with an existing warehouse building, formerly a car wash. The applicant uses the building for the storage of items that he auctions online. The outdoor storage is primarily for heavy equipment. An area of approximately 0.2 acres on the sides and rear of the building is enclosed and screened. The developed property is not in a flood zone and stormwater is managed by the municipal storm sewer system.

The property is bounded on three sides by industrial uses, but on the east side by residential uses. Therefore, maintaining the storage area and screening will result in a better visual appearance for the neighborhood.

The project was reviewed for any potential negative effects and it has been determined that it will not create any significant adverse impacts to the environment. Planning staff recommend a Negative Declaration under SEQRA.

Chairman Miller then asked for a motion to approve the Negative Declaration under SEQRA.

Motion Made:	S. McLain
Motion Seconded:	S. Daglio
MOTION:	Approval of the Negative Declaration under SEQRA
VOTE:	In Favor: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Daglio, M. Jaros Opposed: None Abstained: None Motion Carried

2. Public Hearing for Outdoor Storage: Vote at Planning Board's Discretion

Chairman Miller opened the public hearing for the Special Permit for Outdoor Storage at 7:58 pm.

Bill Stewart sells industrial supplies out of his home on the internet and uses the building located at 3220 Lawndale Avenue for storage. He packs and ships them from his home in Vestal. As he had been cited for storage in the front yard, he explained that he had to wait to move forklifts away from the front of the building because the ground had been so wet. When they originally put concrete in front of the building they did not put the substrate in for drainage. He will lay extra stone when he fixes that concrete.

There were no questions from the audience, and Chairman Miller closed the public hearing at 8:08 pm.

Ms. Lane summarized her staff report for the Planning Board. Bill Stewart submitted an application for an enclosed outdoor storage yard for new and used industrial equipment at 3220 Lawndale Street for the business Olivander's Auction. The fenced outdoor storage area is to the rear and sides of the building, immediately adjacent to an existing commercial building. The 0.37-acre property is zoned Industrial (I) and outdoor storage is permitted by Special Permit from the Planning Board.

Outdoor storage is required to be fully screened. The approximately 0.20-acre enclosed storage area has a chain link fence with green opaque slats which shield the outdoor storage area from the public view.

Under the requirements of Section 617.7(c), the proposed action was examined by the Short Environmental Assessment Form, is considered an Unlisted Action, and the Planning Department recommends a Negative Declaration under SEQRA. A Stormwater Pollution Prevention Plan was not required because there is no proposed disturbance to the site. The project was not subject to a 239-Review.

The Planning Department recommends approval of the Special Permit with the following conditions:

- 1) Per § 300-40.16.B, Outdoor storage, in General Commercial and Industrial districts:
 - (1) Outdoor storage shall not be allowed forward of the building.
 - (2) All outdoor storage shall be screened to ensure the area is not visible from the public right-of-way or adjacent residential districts or uses.
 - (3) Screening shall be of sufficient height and density to hide the storage from public view.
 - (4) All screening shall be maintained in such a manner as to present a neat and orderly appearance at all times.
- 2) There shall be no outdoor storage of waste products or unsanitary equipment.
- 3) The screening material shall be maintained at all times, and if damaged, shall be replaced or repaired within fourteen days (two weeks).
- 4) The Special Permit for Outdoor Storage shall expire should the property or business be sold to another entity, per § 300-66.11. Transferability:
 - a) A special permit is not transferable except upon approval by resolution of the issuing board.
 - b) A special permit shall authorize only one special use and shall expire if the special use ceases for more than three months for any reason.
- 5) The applicant shall be required to acknowledge all of the above conditions in writing, no later than April 30, 2018.

Motion Made:	M. Jaros
Motion Seconded:	T. Crowley
MOTION:	Approval of the Special Permit for Outdoor Storage at 3220 Lawndale Street, with stipulations.
VOTE:	In Favor: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Daglio, M. Jaros Opposed: None

Abstained: None
Motion Carried

3. Pending Special Permit Approval: Site Plan Review

Ms. Lane reviewed her staff report for the Planning Board. The 0.37 acre property has an existing commercial building, and a fenced-in storage area immediately adjacent to the sides and rear of the building. The fenced enclosure shall be fully screened. The applicant does not propose any additional construction to the building.

The used and new industrial equipment is sold to other businesses via the internet. Mr. Stewart is the only employee on site. He will apply for a sign permit. There are no changes proposed to the existing utilities and site lighting.

The Planning Department staff recommends approval of the site plan with the following stipulations:

1. Prior to posting any new signage, the applicant shall apply for a sign permit from the Building Official prior to posting any such signage. All temporary signs (including price signs), portable signs, search lights, balloons, sidewalk and curb signs shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. Signs that blink, rotate, or move are not permitted.
2. If any new outdoor lighting is proposed, the applicant shall first submit cut-sheets to the Code Enforcement Officer for approval.
3. Per NYS law, all commercial buildings must be inspected by the Municipal Fire Code Inspector every three years. As the previous inspection was made in December 2017, it is your responsibility to coordinate the next inspection by calling the Code Enforcement office at (607) 786-2920 prior to December 31, 2020.
4. Site plan approval shall be valid for one year, unless substantial improvements have been made pursuant to the approved site plan.
5. The applicant shall be required to acknowledge all of the above conditions, in writing, no later than April 30, 2018. The applicant agrees to construct the project in strict accordance with the site plan approved by the Planning Board. Should the applicant change the site plan, the applicant must resubmit a new site plan to the Town of Union Planning Department and Code Enforcement Office.

Ms. Lane noted that there was a change to the first stipulation because Mr. Stewart had submitted his sign permit, but Dee was holding it up pending

approval of the site plan. Mr. Crowley stated that Mr. Stewart would not have to return to the Planning Board for the upgrades that he was planning to do for the driveway. Ms. Lane recommended that Mr. Stewart talk with Code Enforcement to see whether a grading permit will be required before he begins the work on the concrete.

Motion Made: L. Cicciarelli
Motion Seconded: S. Daglio
MOTION: Approval of the Site Plan for Olivander's Auction located at 3220 Lawndale Street, with stipulations.
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Daglio, M. Jaros
Opposed: None
Abstained: None
Motion Carried

**E. Upstate Tower / Blue Wireless, 1209 Taft Avenue
Vote on 62-Day Extension of Special Permit Decision**

Ms. Lane noted that since the Town was still in litigation with Up State Tower, Planning staff recommends the Planning Board extend the vote for the Special Permit for a telecommunications facility by another sixty-two days.

Chairman Miller then called for a motion to extend the vote for the Special Permit for Up State Tower at 1209 Taft Avenue by sixty-two days.

Motion Made: T. Crowley
Motion Seconded: L. Cicciarelli
MOTION: Recommendation to extend the Special Permit decision for Up State Tower at 1209 Taft Avenue by sixty-two days.
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Daglio, M. Jaros
Opposed: None
Abstained: None
Motion Carried

F. Other Such Matters as May Properly Come Before the Board

Town Board member Bertoni was contacted by residents about the 26 Kentucky Avenue rezoning project. Some residents are worried about the type of people who would be renting there. Mr. Cicciarelli commented that there is always a potential for degradation of any property, but there are certain things

that can be controlled and certain things that cannot be controlled by the Town of Union Boards.

Ms. Lane explained that the Endicott parcel will require area variances for the project, but that no variances will be needed from the Town of Union. If the Town Board votes to rezone 26 Kentucky Avenue to Urban Multi-Family, then Housing Visions will be able to change the gym area into apartments. The Town of Union parcel has 12 units of the 71 units proposed for the project.

Mr. Crowley added that the developers are going to be strict in screening potential applicants. Ms. Miller stated that since the proposed rents are between six and seven hundred dollars, applicants will need to have incomes that can support those rents. Mr. Jaros asked whether the property would be paying taxes, and per Joe Cook, they would.

Mr. Cicciarelli asked whether the management of the building could be transferred to another company in the future who might not impose the same screening requirements for applicants, and Ms. Lane responded that this is possible. There was also some concern about the number of people who would be living in the apartments and Ms. Lane said she had reviewed the statistics with Housing Visions about the projected occupancy rates, and that the one-bedroom units typically have barely over one person per unit and the two-bedroom apartments have barely over two people per unit. No more than two per bedroom would be permitted. Mr. Crowley asked which police department had jurisdiction over the project and Ms. Lane answered that the Endicott Police, Broome County, and the State Police have jurisdiction.

G. Adjournment

Chairman Miller asked for a motion to adjourn the meeting at 8:40 p.m.

Motion Made:	L. Cicciarelli
Motion Seconded:	M. Jaros
MOTION:	Adjourning the meeting.
VOTE:	In Favor: L. Miller, L. Cicciarelli, S. McLain T. Crowley, S. Daglio, M. Jaros Opposed: None Abstained: None Motion Carried

Next Meeting Date

The next meeting of the Planning Board is tentatively scheduled for Tuesday, May 8, 2018 at 7:00 PM

Respectfully Submitted,
Carol Krawczyk