

Town of Somerset
Planning Board/Public Hearing
October 1, 2020

Present: Norm Jansen, Chairman
Krista Atwater
Laura Bishop
Chris Czelusta
Charles Neal
David Haylett, Town Attorney

Attendance: Jon Hotaling, Councilman
Richard Hanson -- Representative from Pyramid Network Services
Drew Reilly -- Wendel Engineer

Residents: Susan Brott, John Henry Baer, William Rosenberg, Sharon Rhodes

Chairman Jansen called the Public Hearing to order at 7:30

PUBLIC HEARING

Re: Owner/Applicant: Susan Brott & William J. Rosenberg Jr.

Property Location: 7372 Hoffman Rd., Appleton, NY

Application for a SEQR review and minor subdivision of land

Susan Brott explained that she wanted to subdivide her land into three separate parcels; each one being a straight line back. One of the parcels is approximately 60 acres going straight back to Dublin/Townline Rd. (which still needs to be surveyed), the other parcels were part of the original farm, had previously been sold, and 42 acres were bought back. She explains that the parcel which has her house on it could be sold at a later time. Nick Williams is interested in purchasing the 20' wide strip which divides the parcels. D. Haylett confirmed that all the parcels have adequate road frontage. The west lot is being sold to John Henry Baer who will eventually build a house and barn. C Neal alerted J. Baer that some of this land may be in the wetlands and recommended that he check the wetland DEC maps or consult the Army Corps of Engineers. There was no public input.

With no one desiring to be heard, the public hearing was closed at 7:45pm

On a motion of L. Bishop, seconded by C. Neal, the following resolution was
ADOPTED Ayes 5 Jansen, Atwater, Bishop, Czelusta, Neal
 Nays 0

Resolved: The application for a SEQR review and minor subdivision of land from a 98 acre parcel to three parcels (one parcel of 15 acres, one parcel of 23 acres, and one parcel of 60 acres) was approved.

APPROVAL OF MINUTES

On a motion by K. Atwater, seconded by L. Bishop, the following resolution was

ADOPTED	Ayes	5	Jansen, Atwater, Bishop, Czelusta, Neal
	Nayes	0	

Resolved: The minutes of the September 3, 2020 meeting were accepted as submitted.

COMMUNICATIONS: There were no Communications

OLD BUSINESS: Horvath SUP/SEQR/Site Plan Review

D. Reilly led the discussion that the following resolutions need to be approved which include Waterfront Consistency, SEQR, Special Use Permit, and Site Plan. K Atwater suggested a change in wording which states that the tower does not enhance the community character. She feels that the tower will serve to benefit the surrounding community and to those on the lake, making the lake more usable.

D Haylett asked R Hanson if there is control on how far the signal goes. R Hanson explained that a good signal should travel 2-3 miles but obstacles can affect the result. There are 3 arrays that point in different directions to create a 360 degree signal.

C Czelusta asked about the concern regarding brownouts. R Hanson said that the tower engineers will consult Mayer Brothers concerning this. They feel that the brownouts will not kick on the generators.

C Czelusta questioned if they have gotten Tribal approval. R Hanson said that this has been slowed down because of Covid 19 and not been approved as of yet.

On a motion by K Atwater, seconded by C Czelusta, the following resolution was

ADOPTED	Ayes	5	Jansen, Atwater, Bishop, Czelusta, Neal
	Nayes	0	

Whereas, the Town of Somerset received a Tower Special Use Permit from Horvath Communications with Verizon Wireless, for the construction of a new telecommunications tower (cell tower) to be located at 7389 Lake Road (Mayer Brothers facility) in the Town of Somerset; and

Whereas, the project is located in the Local Waterfront Revitalization Area (LWRA) of the Town's LWRP, and therefore the applicant has submitted a draft Waterfront Assessment Form; and

Whereas, the Somerset Planning Board and its consultant have reviewed the draft assessment form, made appropriate revisions, reviewed the waterfront policies as listed

in Chapter 197 of the Town Code and based on this review made the following determination concerning those policies:

(1)

Foster a pattern of development in the Town of Somerset that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of waterfront locations, and minimizes potential adverse impacts of development.

The project is a telecommunications tower that does not enhance community character or preserve open space. The Planning Board believes that it is a beneficial use of waterfront locations because it brings cell service not only to this area but also boaters on the lake.

(2)

Protect existing water-dependent uses in the Town of Somerset and promote the siting of new water-dependent uses in suitable locations.

The project is not a water-dependent use.

(3)

Protect existing agricultural lands.

The project will not impact agricultural lands.

(4)

Promote the sustainable use of living marine resources in the Town of Somerset.

The project does not promote (but does not impact) the sustainable use of living marine resources.

(5)

Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands and rare ecological communities.

The project does not impact ecological resources.

(6)

Protect and improve water resources.

The project does not impact water resources.

(7)

Minimize loss of life, structures and natural resources from flooding and erosion.

The project does not cause impacts to natural resources from flooding and erosion (see the drainage plan)

(8)

Protect and improve air quality.

The project will not impact air quality.

(9)

Promote appropriate use of energy resources.

The project does not create a significant demand on energy resources.

(10)

Minimize environmental degradation from solid waste and hazardous substances and wastes.

The project does not generate solid or hazardous waste.

(11)

Improve public access to the waterfront and the use of public lands.

The project does not improve waterfront access but does not reduce access.

(12)

Enhance visual quality and protect outstanding scenic resources.

The project does not enhance the visual quality of the area.

(13)

Preserve and protect historic resources.

The project does not impact historic resources.

Now, Therefore Be It Resolved, that after reviewing these policy considerations, the Planning Board has made the previous written findings of determination relating to the policies and has issued a SEQRA Negative Declaration. It has been determined that the action is not consistent with one or more of the LWRP policy standards and conditions, and therefore the Planning Board further evaluated the action in accordance with Chapter 197 and further finds that:

(a)

No reasonable alternatives exist that would permit the action to be undertaken in a manner that would not substantially hinder the achievement of such LWRP policy standards and conditions. The applicant has provided substantial evidence that reasonable alternative locations could not be found;

(b)

The action would be undertaken in a manner that would minimize all adverse effects on such LWRP policy standards and conditions. The applicant has shown that the proposed action will be undertaken in a manner that minimizes the adverse effects on the policy standards and conditions (locating in an "industrial area at the rear of the site);

(c)

The action will advance one or more of the other LWRP policy standards and conditions. The project is located in an area that minimizes the impacts to the waterfront ; and

(d)

The action will result in an overriding Town, regional or statewide public benefit. In accordance with the Federal Telecommunications Act, the project provides a public need and benefit. It also provides important cellular service to this area and lake users.

SEQR RESOLUTION

On a motion by K Atwater, seconded by C Czelusta, the following resolution was

ADOPTED	Ayes	5	Jansen, Atwater, Bishop, Czelusta, Neal
	Nayes	0	

WHEREAS, the Town of Somerset received a Tower Special Use Permit and a site plan application from Horvath Communications with Verizon Wireless, for the construction of a new telecommunications tower (cell tower) to be located at 7389 Lake Road (Mayer Brothers facility) in the Town of Somerset; and

WHEREAS , in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Somerset Planning Board has conducted an environmental review of this application; and

WHEREAS, a public hearing was held regarding the proposed project and comments were received and numerous meetings were held on the application,
And

WHEREAS, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Somerset Planning Board has reviewed the Agricultural Data Statement submitted by the applicant, the waterfront assessment form, part 1 of the FEAf and completed part 2 and 3 of the FEAf and reviewed the criteria for determining significance in accordance with Section 617.7 of SEQR.

NOW, THEREFORE BE IT RESOLVED, the Somerset Planning Board, in accordance with the State Environmental Quality Review Act (SEQRA) has determined that the proposed project will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations and therefore issues a SEQR Negative Declaration in accordance with Section 617.7 of the SEQR regulations,
And

BE IT FURTHER RESOLVED that, the Planning Board Chairman is authorized to sign the Environmental Assessment Form (EAF), which will act as the Negative Declaration.

SPECIAL USE PERMIT

On a motion by L Bishop, seconded by K Atwater, the following resolution was

ADOPTED	Ayes	5	Jansen, Atwater, Bishop, Czelusta, Neal
	Nays	0	

WHEREAS, the Town of Somerset received a Tower Special Use Permit application from Horvath Communications with Verizon Wireless, for the construction of a new telecommunications tower (cell tower) to be located at 7389 Lake Road (Mayer Brothers facility) in the Town of Somerset; and

WHEREAS, based on the information submitted for a Tower Special Use Permit, as well as the Full Environmental Assessment Form (FEAF), the Planning Board has determined that the proposal to erect a cellular tower at 7389 Lake Road (Mayer Brothers facility) will not result in any significant adverse environmental impact and a SEQR Negative Declaration was issued; and

WHEREAS, a public hearing was held regarding the proposed project and comments were received and numerous meetings were held on the application, and Whereas , the Planning Board, in reviewing this proposed Tower Special Permit application, has determined, in accordance with Article XIII, section 205-43.1 that (see attached documentation):

- The applicant has shown that the "antennae" cannot be co-located on any existing facility.
- The applicant has submitted all the required information listed in Article XIII (paragraph "D.", items "a." through "m.").
- The project meets the Special Use permit General Conditions (paragraph "E.") for items "(1)" through "(14)" and will adhere to the conditions of items "(15)" through "(21)" .

And,

WHEREAS, the Planning Board, in reviewing this proposed Tower Special Permit application, has determined that the project is also in conformance with Section 205-47 ("Structures taller than general district regulations" - see attached documentation); and Whereas , In granting special permits, the Planning Board shall take into consideration the purposes of this article, the scale of the proposed project, the possible impact of the proposed project on the nearby properties and neighborhoods, architectural aesthetics of the area, and the measures that will mitigate potential adverse impacts and preserve or enhance the character of the Town, and the welfare of its citizens, and shall make specific written findings which are as follows:

(1) The project will be in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this chapter.

(2) The project will not be detrimental to adjacent uses.

(3) The project will not cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads considering their current width, surfacing, and condition and has appropriate parking and is accessible to fire, police and other emergency vehicles.

(4) The project will not overload any public water, drainage, or sewer system, or any other municipal facility, or degrade any natural resource or ecosystem (see SEQR Negative Declaration).

(5) The project is suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and its ability to be buffered or screened from neighboring properties and public roads, and its existing and proposed use.

(6) The project will not result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances, and satisfies the general land use performance standards of this chapter.

(7) The project will not adversely affect the aesthetics of the premises and adjacent properties and the neighborhoods.

(8) The project will not cause the site to be unduly congested, dangerous, unattractive to visitors, or unfriendly to pedestrians."

Now, Therefore Be It Resolved, based on the SEQR Negative Declaration, The Waterfront Consistency Determination, the Agricultural Data Statement, the information submitted and the Tower Special Permit discussion, the Planning Board approves the issuance of a Tower Special Use Permit with the following conditions:

1. Approval is contingent upon the Town Engineer signing off on the design plans.
2. The tower shall not contain any signs or advertising devices. A small sign shall be placed on the fencing to identify the ownership of the facility.
3. The applicant shall provide a yearly inspection report. They shall also provide the Town with other interim inspection reports that are completed, and with special inspection reports for large weather events, as determined by the Planning Board.
4. The applicant shall remove the tower if the telecommunications facility becomes obsolete or ceases to be used in accordance with the Town Code requirements. The applicant shall provide a bond in an amount as determined by the Town in accordance with the Town law.
5. The applicant shall provide a post installation report.
6. The applicant shall provide proof of insurance in accordance with the Town Law.

7. If requested, the applicant shall provide an offer for public safety organizations to utilize the tower.
8. The tower and access drive shall be maintained in good order and repair.
9. The Special Use Permit shall be renewed annually.
10. Per the law, the applicant shall notify the Town of any sale or transfer of lease related to the tower.

SITE PLAN

On a motion by C Neal, seconded by K Atwater, the following resolution was
ADOPTED Ayes 5 Jansen, Atwater, Bishop, Czelusta, Neal
 Naves 0

WHEREAS, the Town of Somerset received a Tower Special Use Permit and Site Plan application from Horvath Communications with Verizon Wireless, for the construction of a new telecommunications tower (cell tower) to be located at 7389 Lake Road (Mayer Brothers facility) in the Town of Somerset; and

WHEREAS, based on the information submitted for a Tower Special Use Permit, as well as the Full Environmental Assessment Form (FEAF), the Planning Board has determined that the proposal to erect a cellular tower at 7389 Lake Road (Mayer Brothers facility) will not result in any significant adverse environmental impact and a SEQR Negative Declaration was issued; and

WHEREAS, a public hearing was held regarding the proposed project and comments were received and numerous meetings were held on the application,
And

WHEREAS, the Town of Somerset Planning Board has received input from the Town's Consultant, completed a coastal consistency determination, considered the Agricultural Data Statement submitted by the applicant, and issued a Special Use Permit.

NOW, THEREFORE BE IT RESOLVED, the Town of Somerset Planning Board approves the construction of the proposed new telecommunications tower (cell tower) to be located at 7389 Lake Road (Mayer Brothers facility) with the following conditions:

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1. Approval is contingent upon the conditions listed in the Special Use Permit

There being no further business, K. Atwater made a motion to adjourn the meeting at 8:34pm, seconded by L Bishop. Carried unanimously.

Respectfully submitted,

Sandra Lewis
Planning Board Secretary