

Appeal Hearing Continuation – Homeland Tower
May 2, 2018

The purpose of the continuation of the Appeal Hearing is to hear the appeal of Homeland Tower, LLC from the decision of the Conservation Board to deny the application of Homeland Tower, LLC and New York SMSA Limited Partnership d/b/a Verizon Wireless for a wetlands permit sought in connection with an application for a Special Use Permit to erect a wireless telecommunication service facility consisting of a 180-foot monopole with antennas, together with related equipment at the base thereof within a multi-carrier equipment compound.

PRESENT

Richard Shea	Supervisor
Nancy Montgomery	Councilwoman
John Van Tassel	Councilman
Michael Leonard	Councilman
Robert Flaherty	Councilman
Adam Rodd	Town Attorney

Town Clerk Merando read the Hearing Notice.

Robert D. Gaudio, Attorney representing Homeland Towers, LLC and New York SMSA Limited Partnership d/b/a Verizon Wireless addressed the Town Board stating that a meeting was held last month, since that time, he is receipt of the Zoning/Conservation Joint Meeting minutes, which denied the wetlands permit.

He went on to reiterate that there is no ground disturbance involved to the actual wetlands. The wetlands consist of a 2.2 acre area, a man made retention pond which is the site that the proposed access road will go through. The access drive is approximately 15 feet wide, base will be gravel together with underground utilities. Based on the town's wetlands code the actual access drive or the underground utilities are not considered a structure. Therefore under section 93-7, the access drive is a project that is of minor significance. All of the erosion and sediment controls that were requested by the Conservation Board and the Natural Resource Officer were added to the plans. At a site visit with the Conservation Board, Verizon re-visited the access drive to save a number of significant trees. Noting that there are two minor trees proposed to be removed as part of the installation of the access drive. He noted that there are no DEC or Army Corp of Engineers involved in this access drive, this is strictly a town controlled area.

Councilman Flaherty stated that the firehouse wanted the access road wider than 15 feet. Mr. Gaudio responded stating that they had originally proposed a 12 foot wide road, however, the fire department wanted the road wider as submitted on the plans. Councilman Van Tassel interjected that he thought the parking area at the top was to be larger. Mr. Gaudio stated that that was discussed, and changed to provide a larger area around the base of the monopole, which is not in the wetlands buffer.

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Councilwoman Montgomery reference a comment made by Mr. Gaudioso stating that it is not a DEC wetland. She wanted to know if there is any wetland mapping for that area. Noting that the town doesn't have all of the wetlands mapped. She added that when there is a wetland, it is regulated. Councilman Leonard stated that it's all listed for that area, there are also state wetlands at the base of the property. Mr. Gaudioso stated that has been included in the plans.

Supervisor Shea stated that there are some issues not resolved, such as the impact to the residents and wetlands downhill of the tower. He noted the pipes, failed septic system, and a drain pipe that empties out into another detention basin.

Max Garfinkle, Natural Resource Officer suggested that the board look for alternative locations. Also, they should disclose why the alternative sites were not acceptable. He went on to say, that from a technical standpoint, these aren't DEC regulated, rather regulated under the Town Code due to the size of the wetlands. He stated that he wants to add to Mr. Gaudioso's statement that the town not only regulates the detention pond there, we also regulate the inflow to that detention pond and outflow. Based on old records that detention pond was built around the current stream, which was in the area where the septic line was proposed. Access was solely for getting access to those fields and the detention ponds were built simultaneously without permits, later to be rectified by the permitting process.

Mr. Gaudioso stated that he thinks that's an important point because it was specifically meant for access to that back part of that property. Homeland Towers are actually going over the area from the detention pond on to the outfall there, with actually two 24 inch pipes. They are not affecting the flow from the detention pond to the pipes.

Max Garfinkle commented stating that in that case, the plans that were submitted led to discussion with regard to the integrity of those plans and whether or not the improvements to the road would affect those pipes negatively. He said it would have to meet the weight capacity of emergency vehicles and construction vehicles and he doesn't believe that was discussed in the current application. That would be a concern in terms of it affecting that area. Additional construction measures would have to be put in place, which haven't been done currently. Mr. Gaudioso stated that they are not proposing any change to the pipes. They would only expand it if they had to with a plate or something to that regard. He added that throughout the record the road would meet a bearing weight. He then spoke of the alternatives, there is a very lengthy analysis on the record which addressed the feasibility of the alternatives. The alternatives were submitted to the Zoning Board and the Conservation Board that would not require wetlands, which was dismissed without much review.

Councilman Flaherty asked how far away the alternative site is as compared to the proposed site. Mr. Gaudioso replied approximately 800 feet further down the hill closer to Route 9. Councilman Flaherty asked if it's closer to Magazzino, the answer was yes down the hill due west. He also pointed out that there is a cleared area down there. Homeland Towers met with the town engineer, zoning board chairman, Mr. Rodd and

the property owner, however, that site was dismissed. Councilman Van Tassel suggested that site would require a higher elevation. Mr. Gaudioso responded stating no, the record shows that they proposed a 180 foot tower and would consider going down to 140 feet. The location at the alternative site would most likely be in the range of 160 feet, which would be lower than the original proposal and lower in the ground elevation. The base would be lower and the overall height would be lower. Councilman Flaherty asked what the elevation from that location that was proposed to the elevation that is 800 feet west. Mr. Gaudioso stated that he isn't sure, but knows that is lower. He noted that Verizon was able to get coverage based on 180 feet.

Councilman Leonard stated that when Mr. Gaudioso spoke of meeting with the Conservation Board, he didn't name any members of that board. Mr. Gaudioso responded saying that the Public Hearing was closed and left open specifically to review the alternatives on the property. When they returned for the adjourned date it was presented to both boards and was dismissed. There was a discussion with regard to alternate sites, and which board would initially review the application. Following that discussion, it was noted that an alternate site would not have required a wetlands permit. Max Garfinkle pointed out that the Conservation Board doesn't have the alternate plans on file.

Paul Eldridge address the Town Board and gave a more detailed history of that area referencing a map. He spoke of a natural water course, (noting that this map is before the detention ponds were put in) and the existing wetlands. He stated that any US Geological map clearly shows the natural water course. He expressed his displeasure with the proposed placement of the tower. He also pointed out that the access road is going to have heavy emergency vehicles traverse, as well as construction machinery and a crane, which will have a negative impact on that area. Another subject addressed were the deep hole tests that were performed, which filled up with water quickly. Buffer zones were also discussed, as Mr. Eldridge pointed out on the map. He stated that it's clearly a wetland and a major project.

Mr. Gaudioso responded to Mr. Eldridge's comments stating that there is no impact to the existing flow. Councilman Van Tassel stated that there is no foundation plans for the base of the tower. Mr. Gaudioso agreed, however, pointed out that none of that is in the buffer. He went on to say, that the Town Board nor the Conservation Board have any jurisdiction over that portion of the proposed project, it is limited to the access drive itself. Supervisor Shea had concerns about the condition of the pipe, noting that no one has been out there to study the load capacity of those pipes. He added that if this was being done as a new project, it wouldn't be acceptable. Mr. Gaudioso stated that they did submit plans showing exactly what they were going to do and there was no need to upgrade those pipes. He explained that if the board wanted to approve this, and wanted Homeland Tower to work with the Building Department, and the Natural Resource Officer to look at those issues, he sees no objections to doing that. Discussion then turned to the original placement of the test holes, which there were no permits sought during that process, and the project was abandoned. Mr. Gaudioso stated that since then permits have been obtained and there are no violations.

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Councilman Van Tassel stated that from the sounds of it, the retention pond is not working. Councilwoman Montgomery commented that the situation was mitigated, however, she doesn't feel that it has been resolved. She doesn't want to see that this project will now add to the problem. Mr. Gaudioso interjected that there is nothing in the plan that would make matters worse in this situation. He believes that a lot of what has been said might be speculation.

Robert Dee, Chairman of the Zoning Board stated at the time he attended the two balloon test, it was obvious that there was water flowing.

Councilman Van Tassel asked if Homeland Towers would be willing to locate the alternative site on the map. Mr. Gaudioso then presented a map to the Town Board indicating the alternative site. He suggested that the Town Board consult with legal counsel as he has clearer maps on the alternate site.

Councilman Van Tassel asked Mr. Eldridge how far is it from your property line to the proposed tower. Mr. Eldridge responded that from the edge of his property, it's 200 feet. Mr. Eldridge once again used a visual to note the water flow, etc.

There being no further comments, Councilman Flaherty made a motion to close the Appeal Hearing, seconded by Councilman Van Tassel at 7:50 p.m.

ROLL CALL VOTE

Supervisor Shea	voting	AYE
Councilwoman Montgomery	voting	AYE
Councilman Van Tassel	voting	AYE
Councilman Leonard	voting	AYE
Councilman Flaherty	voting	AYE

Respectfully submitted by,

Tina M. Merando
Town Clerk