

LIVONIA JOINT PLANNING BOARD
July 10th, 2023

Present: Chairman R. Bennett, A. Baranes, J. Brown, R. Haak, J. Palmer, K. Strauss, CEO Adam Backus, Zoning Compliance Assistant J. Holtje, Attorney J. Campbell Secretary A. Houk

Excused: D. Andersen.

Agenda:

- 1) Accept and approve the meeting minutes of June 26, 2023*
- 2) Bell Atlantic/Verizon Wireless – Near/off 6653 Niver Road, Livonia, New York – Tax # 93.-1-43.112
Site Plan – Public Hearing*

Chairman Rick Bennett opened the meeting at 7:00 p.m.

1) Approve Meeting Minutes for June 26, 2023. Chairman Rick Bennett asked for a motion to approve. M/2/C (R. Haak/J. Palmer) approved as submitted. Carried 6-0.

2) Bell Atlantic/Verizon Wireless – Near 6653 Niver Road, Livonia, New York

PLEASE TAKE NOTICE that the LIVONIA JOINT PLANNING BOARD will hold a Public Hearing on Monday, July 10, 2023, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of Bell Atlantic Mobile / Verizon Wireless for a preliminary Site Plan according to Section 150-102 A of the Zoning Code of the Town of Livonia. The site plan application is for the construction of a 195' Cellular Tower to be located near 6653 Niver Road, Tax parcel # 93.-1-43.112 in the Town of Livonia, NY, and is Zoned Neighborhood Residential Conservation District (ARC-5). This application is on file in the Livonia Building and Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review. All interested parties will be heard at this time.

Chairman Rick Bennett opened the Public Hearing. The responsibility of the Planning Board is to review this Site Plan. A checklist of items to be reviewed per Code 150-103 – General Requirements (A) needs to be looked at. The first is if this is necessary to meet the current or expected demand for the service. Is it considered a public utility in the State of New York? Is it designed and constructed in a manner that minimizes visual impact to the extent practical? Is this the most appropriate site among those available within a technically feasible area for the location of a telecommunication facility? When including the tower's construction, we must consider co-location. The site plan shall show different elevations and heights for the site and surrounding vicinity. The Code shows a safety analysis for EMS. Under current Federal guidelines, we are prohibited from looking at that.

Chairman Rick Bennett asked Robert Burgdorf, Attorney of Nixon Peabody, representing Bell Atlantic/Verizon Wireless, Jackie Bartolotta, Site Acquisition Specialist, and Phillip Colantonio,

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RF Engineer for Verizon Wireless, to come forward for the Site Plan review. Also present was Town RF Engineering Consultant Steven Ciccarelli. Robert Burgdorf stated that Verizon Wireless is a public utility, licensed & regulated by the FCC, and has a responsibility to provide adequate service within its licensed areas. It currently has inadequate service in particular areas, and the only way to remedy that is with a new facility. The application shows the coverage need in exhibit (H). The problem, essentially, and how they solve the problem is with a tower in the correct location. Cell services work with extremely limited flexibility to where you can place a facility and still have it work within the network. They develop a search area to show the possible locations from an engineering standpoint. That doesn't mean everything outside of it won't work or that everything inside will work; it's kind of like a bull's eye. That is the guide for the site acquisition team in looking at potential sites and ruling out some sites, such as wetlands or land that is not available. It starts to narrow it down to viable alternatives that meet the Code. They looked at sixteen different locations, all of which were detailed in the Site Plan application. From that search area, many are not available or get re-tested and don't work. That is how they settled on the Niver Road site. They are proposing a 195' Cell Tower. If they can keep the tower under 200', they are not required to keep it lit. They try very hard to keep the towers under 200' so no lights or strobe lighting are required. They show the height propagation as to why they are proposing the tower at the height of 195'. Other than providing the service and being visible, the tower has no other impact. It doesn't draw resources or traffic or create any noise. The tower only takes care of providing modest wireless communications. The applicant welcomes the Town's consultant to review their application and double-check their RF. While they have not yet seen the consultant's report, it was their understanding that they were looking for additional propagation as to why they chose the height they are proposing, which they are happy to provide. If they were to start to go down in height, the tower would fail to provide coverage and to solve the coverage objectives. He asked if any of those sites are less desirable than this site, should they spend the time digging deeper to provide further information on those sites? They try to pick the best site, not just from an engineering standpoint or a services standpoint, but one that makes the most sense. Where they are procedurally, other than responding back to the consultant's findings report, is the Livingston County referral, which, as he understands, is on their agenda later this week. Between this meeting and the next meeting with the Planning Board, they will provide any information that is required regarding the consultant's report, as well as any other questions or requests for further information from the Board or from any neighbors so everyone has a clear, complete picture. This should allow the Planning Board to review and make a determination on SEQR at the next meeting.

Chairman Rick Bennett stated that the consultant's findings report should be sent to the applicant, and once we receive the information back from the applicant, the Board can analyze the response and provide any additional comments.

Chairman Rick Bennett asked if anyone from the public would like to make a comment regarding the application. Anyone wishing to comment was asked to state their name and address for the record.

Cory Buzzell of 5604 Mission Road, Conesus. He is located very close to the proposed site. He said that there is concern about the safety of sound waves. Chairman Rick Bennett noted that under Federal Law, the Board does not have the authority to address that. Cory said that was the

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extent of his comments; he wanted it noted that he doesn't want to live next to a cell tower based on the amount of data coming out in recent years showing the negative impacts on humanity and wildlife. He doesn't want to live next to the cell tower.

Bob Nillson of Harder Road, Hemlock stated that there seems to be a lot more data about cell towers' negative effects. He is concerned about that. A limited amount of research showed that there haven't been a lot of studies on the negative effects. The industry always seems to say that it is okay. We heard this with asbestos and tobacco and fracking. The industries really don't care about wildlife; they just need to make money. Hemlock Lake is the largest undeveloped body of water east of the Mississippi River. It's a gem that is quiet and pristine. For the most part, the hillsides still look like they did before our people came here to settle. Many people appreciate that for what it is, and to see another pockmark up on the hillside towering over the beautiful lake just doesn't feel right. The applicant states that they need to have more coverage. He has a Verizon cell phone, which seems to work well unless he is in a gully near the lake. He is curious about what the necessity is to have ~~with~~ the transmission of 5G. Is 5G truly a newer technology? They are currently using them in microwaves. He works for a tree company, and when at training, there was a discussion regarding trees dying within proximity to the new cell towers. Tree workers were very concerned about their own health, working to take down the trees that had been killed by being in proximity of the new cell towers & booster antennas in more populated areas. He thinks these concerns are worth looking into, and it's worth looking outside the box instead of just listening to what the industry has to say. They tend to be dishonest and do whatever they can to make money. He also wanted to mention that this Town is still operating on a Comprehensive Plan that is very outdated and blatantly ignored, especially with the Dollar General in Hemlock. That type of thing was never supposed to happen there. He would like to ask that we do everything we can to slow this down, research, and think about it and the community. Start thinking about what we would like it to look like one or two generations from now. How are we treating the land, and are we really taking things into consideration when making big decisions? Once the tower is there, it's not going away.

Cory Buzzell commented that he has AT&T and has great coverage all over the place. He wasn't sure exactly what the issue was. Was it a coverage or bandwidth issue? He doesn't really understand the need. He felt it would behoove us to inform the public what the actual need is for this proposed tower.

Chairman Rick Bennett noted that the Board cannot make any decisions until we hear back from the Livingston County Planning Board. It doesn't make any sense to do anything until the Town's Consultant summary has been forwarded to the applicant and they respond to those comments regarding other sites and needs. Jackie asked if the Consultant was authorized to send those findings to them. Chairman Rick Bennett stated that the Consultant is authorized to forward the findings. CEO Adam Backus requested that the Building & Zoning office be copied in on all correspondence.

Attorney James Campbell stated that the next step is to leave the Public Hearing open and wait to hear back from Livingston County Planning regarding the referral. The Planning Board should seek lead agency for coordinated review since the Zoning Board of Appeals will address the

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Conditional Use Permit. Once the Planning Board makes a motion to obtain lead agency, ZCA Julie Holtje can send out notifications to the Zoning Board of Appeals, Livingston County Planning Board, and the Town of Conesus as being within the 500' town trigger. This notification will give those agencies a 30-day time period to respond.

Bob Nillson asked why the applicant would be required to appear before the Zoning Board of Appeals. CEO Adam Backus stated that a Conditional Use Permit is required for the Cell Tower; it is not a Variance. ZCA Julie Holtje noted that it is another layer of protection. Jackie noted that it gives them parameters for what is allowed on that parcel.

Chairman Rick Bennett asked for a motion for the Livonia Joint Planning Board to be the lead agency for SEQR on this Cell Tower application. Motion to be lead agency: M/2/C (J. Palmer/R. Haak) Carried 6-0.

Robert asked what the next meeting date would be for them to be on the agenda. ZCA Julie Holtje said the next Planning Board meeting will be on July 24th. The next meeting will be with the Zoning Board of Appeals, a Public Hearing for the Conditional Use Permit, on July 17th.

There was a brief conversation regarding waiving the ~~shot~~ clock. Bob Nillson asked for clarification. Attorney James Campbell stated that it is a Federal statutory provision that states if there is no proficiency in a process and it does not go from application to approval within 150 days, the application would be automatically approved.

Jeanne Brown wondered if when the applicant goes to the Zoning Board next week, they're not going to want to act on the Conditional Use Permit because of the Planning Board. Attorney James Campbell noted that the applicant is required to do both paths simultaneously. The applicant noted that since the Public Notice has already been established for that meeting, they might as well proceed with the Zoning Board meeting. They will have to return back to the Zoning Board because they won't be able to act due to SEQR not being done at that point.

Chairman Rick Bennett noted that the Public Hearing will remain open at this time.

With no further questions, Chairman Rick Bennett asked for a Motion to adjourn the meeting at 7:52 p.m... Motion to adjourn: M/2/C (R. Haak/J. Brown) Carried 6-0

Respectfully Submitted,
Alison Houk, Recording Secretary