

June 1, 2016

The regular meeting of the Wheatfield Planning and Zoning Board was called to order at the Wheatfield Town Hall at 7:00 p.m. by Chairman Walt Garrow.

Present: Richard Muscatello, Donald Proefrock, Melissa Germann, Michael Polek and Walt Garrow.

Also Present: Town engineer Wendel; Town Supervisor Bob Cliffe and members of the public.

#### Summary of Agenda

Moved by R. Muscatello, Seconded by M. Germann to approve the minutes of May 18, 2016 as presented. Motion unanimously carried.

**7:05 p.m. Planning Board (PB) held a Special Use Permit Public Hearing, for St. Peter's Lutheran Church and School, 6167 Walmore Road, Sanborn, NY.** Applicant requesting permission for the installation of an electronic sign at that address. The property is located in a Residential - 2 (R-2) zoning district. Electronic signs are permitted within an R-2 zone upon the issuance of a Special Use Permit. One member of the public was present who was an adjacent neighbor, and he had no objections to the sign. The applicant stated that they have talked to the other adjacent neighbor and they too have no objections. The engineer described the project and provided design drawings for the church & school. This sign would replace three current signs that exist on the property. The sign will be turned off at approximately 10:00 p.m. nightly. SEQR was reviewed. Applicant explained three variances they will need from the ZBA dealing with the proposed location of the sign and Town setback requirements.

#### Board Actions

The Planning Board unanimously voted to make a Negative Declaration for SEQR.

The Planning Board unanimously voted to Conditionally Approve the Special Use Permit with the following conditions: 1) variances are received from the ZBA, 2) the sign is in accordance with the Town's sign law, and 3) reasonable request made by the Town's Code Enforcement Officer.

**7:39 p.m. Site Plat Review for Cell Tower Installation at 6571 Shawnee Road, North Tonawanda.** The applicant addressed many of the outstanding items but did not provide updated Site Plans. The applicant was requesting the start of SEQR but SEQR cannot be started until the amended Site Plans are received. A main item of discussion was regarding the Town's request to have an independent RF study performed to see if the tower relays could be placed onto a nearby water tower. The applicant had previously agreed to this but could not find an appropriate consultant for that study, any closer than New York City. Wendell had found a consultant in Rochester and it was agreed to have the study done through Wendel, paid for by the Town, and the Town will be reimbursed by the applicant.

There were new issues identified by Wendel through their on-line mapper review. The property shows federal wetlands and those wetlands will need to be delineated and a letter from the applicant stating that they will not be disturbed. Another item identified was that the property was flagged for archeological so the applicant will need verification from SHPO that there are no issues. Also the applicant will need a letter from the State agricultural district for this project. A condition of approval for this project will include NYSDOT approval for the removal of the road culvert and the road guardrail.

#### Board Actions

**Planning Board scheduled a Special Use Permit Public Hearing**, for the height of the tower, on July 6<sup>th</sup>, 2016, at 07:05 p.m., per the applicants requested date.

#### Board Business

**PB discussed an Application for Rezoning from J. Ronald and Marilyn Cicero** for a property on Niagara Falls Boulevard (NFB) that is located within the NFB Overlay District. The item was tabled and the Town Supervisor & Walt Garrow called the applicant and invited them to the public hearing, tomorrow night at the community center, regarding the Town's plan to rezone portions of the NFB Overlay District. The applicant is requesting to rezone the R-2 property to Commercial which coincides with the planned zoning for that property.

**PB discussed an Appeal to the Zoning Board for an Area Variance** that will go the ZBA. The appeal was from Ryan Hogan in the Villas at Wheatfield Lakes, to construct a permanent roof over a backyard concrete patio, up to the property line that will go into the 5 foot setback on the southeastern side of the property. The Planning Board recognized that this is a ZBA issue but wanted to pass our concerns onto the ZBA. A primary concern was the distance between the houses/properties and what the FAB would think about the possibility of fire spread. Another concern was whether the applicant would be compromising the required common space for the development. Lastly we discussed that even though both of the Home Owners Associations (HOA) agreed with this action, that it may set a precedence for future similar type actions.

Next meeting: June 15<sup>th</sup>, 2016

Motion made by D. Proefrock, Seconded by R. Muscatello to adjourn the meeting. Motion unanimously carried.

Respectfully Submitted,  
Michael Polek, Secretary

TOWN OF WHEATFIELD PLANNING & ZONING BOARD  
Site Review Process Results

1. **Type of Review ("X" one):**  
 Sketch Plat Review XX Public Hearing Special Permit  
 Site Plat Review Final Subdivision Plat  
 Preliminary Subdivision Plat-Major Rezoning Request  
 XX Special Use Permit Commercial Vehicle Parking Permit

Site Plat Date – N/A

Review Date: June 1, 2016

2. **Development Specifics: Special Use Permit – Installation of Electronic Sign**

- a. Property Identification & Location – 6167 Walmore Rd., Sanborn, NY 14120.
- b. Owner(s) Name(s), Address & Phone No. – St. Peter's Lutheran Church & School, NY 14132. Phone: 716-946-5911.
- c. Developer (when different) Name, Address & Phone No. – NA
- d. Architect/Engineer/Licensed Land Surveyor Name, Address & Phone No. –
- e. Development Details (Explain) – Special Use Permit to install an electronic sign at the church/school.

3. **Planning & Zoning Board Mandated Conditions/Recommendations:**

- a. Held public hearing for the Special Use Permit. 1 member of the public attended, an adjacent neighbor and he had no objections. Applicant stated that the other adjacent neighbor was consulted and had no objections.
- b. Applicant provided a design drawing, site plan checklist and part 1 EAF. The board went through Part 2 of the EAF with the applicant.
- c. This 1 sign will be replacing 2 wooden signs and 1 letter type sign on the property.
- d. Sign complies with Town sign law, approximately 5' high by 7.5' wide.
- e. Sign will be shut off nightly at ~10:00pm.
- f. Applicant needs 3 variances from the ZBA: 1) 10' setback from side yardline required, requesting 8' ; 2) 15' from road right of way required, requesting 2' because of a sink hole further back and also not being able to see the sign ; 3) Required to have 50' from a residential lot, the closest house is 200' but the farmers filed is zoned R-2 and it is only 8'

4. **Planning & Zoning Board Action:**

In accordance with the SEQR requirements, the Planning Board has reviewed Part 1 of the EAF submitted by the applicant, reviewed Part 2 with the applicant and have determined that the Project will not have significant adverse impacts on the environment and therefore issues a Negative Declaration. The Planning Board authorizes the Chairman to sign the EAF.

Voting Results: Yeas: Muscatello, Proefrock, Germann, Polek, Garrow, Nays: none, Abstentions: none

Motion and seconded to conditionally approve the Special Use Permit with the following conditions: 1) presented variances are obtained from the ZBA, 2) sign is in accordance with Article 9, 200-67, of the Town's sign law, 3) Reasonable request made by the Town's Code Enforcement Officer.

Voting Results: Yeas: Muscatello, Proefrock, Germann, Polek, Garrow, Nays: none, Abstentions: none

**Authentication:**

	June 1, 2016	
Planning & Zoning Board Representative	Date	Owner/Representative Signature
Distribution: Town Clerk	Building Department	Town Board Members
Town Assessor	Town Attorney	File Folder
Enforcement Office	Applicant	

TOWN OF WHEATFIELD PLANNING & ZONING BOARD  
Site Review Process Results

1. **Type of Review ("X" one):**
- |    |                                    |                                   |
|----|------------------------------------|-----------------------------------|
|    | Sketch Plat Review                 | Public Hearing Special Permit     |
| XX | Site Plat Review                   | Final Subdivision Plat            |
|    | Preliminary Subdivision Plat-Major | Rezoning Request                  |
|    | Special Use Permit                 | Commercial Vehicle Parking Permit |

Site Plat Date – April 6, 2016

Review Date: June 1, 2016

2. **Development Specifics: Cell Tower Installation**

- a. Property Identification & Location – 6571 Shawnee Rd, North Tonawanda, NY 14120.
- a. Owner(s) Name(s), Address & Phone No. – Donald Fickelsherer, 6571 Shawnee Rd, North Tonawanda, NY 14120. Phone: 716-863-0213.
- b. Developer (when different) Name, Address & Phone No. – Horvarth Communications, 312 W. Colfax Ave., South Bend, IN 46601. Phone: 574-237-0464.
- c. Architect/Engineer/Licensed Land Surveyor Name, Address & Phone No. – Maser Consulting, 400 Valley Rd, Suite 304, Mt. Arlington, NJ 07856. Phone: 973-398-3110.
- d. Development Details (Explain) – Site Plan for the proposed construction of a new cell tower, 160' with a lightning rod of 4' for a total height of 164'.

3. **Planning & Zoning Board Mandated Conditions/Recommendations:**

- a. Applicant needs a special use permit due to the height of the tower. This will require a Public Hearing Session. Hearing scheduled for July 6<sup>th</sup>, 2016 at 7:05 pm.
- b. Applicant needs to contact Mercy Flight about the project. Applicant has provided documentation of contact with FAA and them having no issues and Mercy Flight is requesting a light be placed on the tower. Planning Board requested the light be put on the drawings.
- c. Project requires SEQR. SEQR will be officially started when the amended site plans are received.
- d. Applicant received an amendment to option and lease agreement with the property owner, to add the area in the fall zone to the agreement.
- e. Applicant states that they will obtain an insurance bond for the project, for site restoration.
- f. Any further planning for this tower will require co-location approval from the Planning Board.
- g. Niagara County Planning Board review questioned why the project couldn't be moved to county water property northwest of this location. A letter was provided why that was not feasible – due to signal gaps being created. Map of coverage was provided. Board is requiring to have an independent survey/study completed, chosen by the Planning Board, paid by the applicant. The applicant is open to the idea. This study shall include the possibility of utilizing nearby electric utility line towers. The issue will be re-visited when the updated site plan is received and reviewed. Applicant requested the name of a company to use and requested to work in conjunction with the Town's engineer on the issue. Update: Wendel could not locate any local RF research companies but the applicant found one in Rochester. It was agreed upon to utilize that contractor. Also agreed that the Town will pay for the study through Wendel and the applicant will reimburse the Town for the study.
- h. Applicant states that there can be up to 4 service providers on the tower including the applicant.
- i. Need zoning variance for height of tower. Town code permits 100', application is in excess of allowable height (164').
- j. Process: 1<sup>st</sup> step: SEQR, coordinated review at the Planning Board; 2<sup>nd</sup> step: Planning Board to set and hold Public Hearing for Special Use Permit; 3<sup>rd</sup> step: Planning Board act on SEQR, 4<sup>th</sup> step: Zoning Board Appeals can act on variance; 5<sup>th</sup> step: back to Planning Board for Special Use Permit and Site Plan.
- k. Verify the proposal meets the Telecommunication Law in the town Zoning code: Section 200-106 to 200-124.

- I. Wendel noted three environmental issues: 1) There are possible federal wetlands on the property, Wendel requested a letter from the regulatory agency that they are not there or if they are there, a map showing where they are and a letter stating that they won't be disturbed. ; 2) Area is in the State Agricultural District so the applicant will need an Agricultural data statement. ; 3) The site was flagged for an archeological item, the applicant will need a SHPO letter.
- m. A condition of approval will be a letter from NYSDOT approving the removal of the guard rail and installation of the road culvert prior to construction.

**4. Planning & Zoning Board Action:**

No further action required, pending noted conditions.

**Authentication:**

	<u>June 1, 2016</u>		
Planning & Zoning Board Representative	Date	Owner/Representative Signature	
Distribution:      Town Clerk	Building Department	Town Board Members	
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