

Town of Hamburg  
Planning Board Meeting  
September 19, 2018

Minutes

The Town of Hamburg Planning Board met for a Regular Meeting on Wednesday, September 19, 2018 in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Chairman Daniel O'Connell, Vice-Chairman William Clark, Doug Schawel, Dennis Chapman, Robert Mahoney, Augie Geraci and Al Monaco.

Others in attendance included Town Planners Drew Reilly and Matt Bowling, as well as Attorney Cheryl McFadden Zak.

**REGULAR MEETING**

**Capital Telecom Holdings, LLC, as agent for Bell Atlantic Mobile Systems of Allentown, Inc. d/b/a Verizon Wireless - Requesting a tower special permit and site plan approval of a cellular tower to be located at 3081 Pleasant Avenue**

Attorney Don Cheney, representing the applicant, stated that he spoke with Stealth Concealment Solutions about ways to camouflage the proposed cellular tower, and there are not many good options. He submitted photos showing the differences in mounts (six-foot mount vs twelve-foot mount) and noted that the six-foot mount does create less of a visible profile for the site. He stated that the applicant has requested twelve-foot mounts because someday it would like to have four (4) antennas on the tower, and the six-foot mount limits that number to two (2).

In response to a question from Mr. Geraci, Attorney Cheney stated that the height of the cellular tower would be the same whether six-foot mounts or twelve-foot mounts are used.

Attorney Cheney stated that his opinion has always been that white is the best color for the cellular tower.

Mr. Reilly stated that the Planning Board asked Attorney Cheney to investigate flush-mounted antennas. Attorney Cheney stated that flush-mounted antennas take away usability of the site and spots for other carriers.

Mr. Reilly stated that the proposed tower would be 158 feet high, and the antennas would be located at 150 feet. He added that Town Code allows the applicant to add antennas at 140 feet and 130 feet. He further stated that the Planning Board could ask the applicant to reinforce the cellular tower so that it can be expanded another 20 feet for another user.

Attorney Cheney submitted photos of what the cellular tower would look like with a white mount and a white antenna.

Chairman O'Connell reminded Attorney Cheney that two meetings ago the Planning Board asked him to submit options to camouflage the cellular tower, and Mr. Reilly showed Board members different options he found on the internet. Chairman O'Connell stated that Attorney Cheney never did submit options to the Board as requested.

Attorney Cheney stated that there are no stealth options for this site that would make sense. He stated that the tower is so big that something like a silo would not make sense. He stated that

there is nothing that he could propose to the Board that would camouflage this site beyond what was discussed already.

Chairman O'Connell stated that he does not think that the applicant has tried hard enough to address the Board's concerns regarding aesthetics, noting that he has seen many examples on the internet of camouflaged cellular towers. He stated that he does not think the Board has received the information it requested.

Attorney Cheney stated that disguising the cellular tower as a tree did not seem like a viable option, and he does not know what else is available that would change visually what the cellular tower is.

Chairman O'Connell asked Attorney Cheney if he would like more time to explore other options. Attorney Cheney replied that he has no other options to propose. He stated that there are concealment companies out there, but he does not know of any concealment technique for this site that would change what the cellular tower is.

In response to a question from Mr. Clark, Attorney Cheney stated that the cellular towers seen on the internet that are able to be camouflaged are shorter than the one proposed at this site because the RF coverage for this carrier is different from that of the towers seen on the internet. He noted that there are more concealment options for shorter cellular towers.

Attorney Cheney stated that the proposed height of the cellular tower is the minimum height the applicant needs to cover the gap it is trying to fill.

Mr. Reilly stated that the Planning Board has before it an application for a Tower Special Permit, which includes a Site Plan, and anything the Planning Board does is subject to SEQR (State Environmental Quality Review Act). He noted that this project is a Type I Action under SEQR, and the applicant has provided Part One of the Full Environmental Assessment Form (FEAF). He stated that the Planning Board would review Part Two of that document for the record and make a SEQR decision (Negative Declaration or Positive Declaration).

Mr. Reilly stated that the Planning Board requested and was given photo simulations of the cellular tower, and the applicant provided the need for the tower, and an independent RF engineer was hired and provided a report to the Board confirming the need for the 158-foot cellular tower.

The Planning Board reviewed Part Two of the FEAF as follows:

- The project will have an impact on land, but none of the issues listed in the FEAF rise to the level of having a moderate or large impact.
- The project will not have an impact on geological features.
- The project will not have an impact on surface water. There is a potential for wetlands in this area, but the applicant submitted additional information indicating that the area where the cellular tower is proposed is not within any designated wetlands.
- The project will not have an impact on groundwater.
- The project will not have an impact on flooding.
- The project will not have an impact on air.
- The project will not have an impact on plants and animals.
- The project will have an impact on agricultural resources. The site is located in a State-designated agricultural district. The cellular tower is proposed in an area that is not being farmed (pig farm).

- The project will not have an impact on aesthetic resources. There are no officially designated federal, state or local scenic or aesthetic resources, and there are no scenic views in this area. The project may be visible from publicly accessible vantage points, but the impact is small.
- The project will not have an impact on historic and archeological resources.
- The project will not have an impact on open space and recreation.
- The project will not have an impact on Critical Environmental Areas.
- The project will not have an impact on transportation.
- The project will not have an impact on energy.
- The project will not have an impact on noise or odor, but it will have a small impact on light because a steady red light is required to be placed on the top of the cellular tower.
- The project will not have an impact on human health. The Federal Telecommunications Act has determined that cellular towers are not a health impact.

Mr. Reilly stated that the RF engineer indicated that even if the Planning Board did consider human health in its decision, the height of the tower and the distance from nearby residents are below any thresholds.

- The project is not consistent with adopted land use plans, and its land use components are different from or in sharp contrast to current surrounding land use patterns (moderate to large impact). The project is inconsistent with local land use plans or zoning regulations (moderate to large impact) because this is the least preferred location for a cellular tower.
- The project is inconsistent with the existing community character. It is inconsistent with the predominant architectural scale and character of the area (moderate to large impact). The project is inconsistent with the character of the existing natural landscape (moderate to large impact).

Mr. Reilly stated that Board members must determine if the impacts that have been deemed to be “moderate to large” are significant enough to warrant a Positive Declaration or asking for additional information.

Mr. Reilly stated that the equipment that would be installed on the ground would not be easily seen, but the tower itself would be seen from different locations and may impact the community character.

Attorney Cheney stated that the applicant would be comfortable with utilizing a six-foot mount and returning to the Planning Board if a twelve-foot mount is found to be necessary in the future.

In response to a question from Mr. Clark, Mr. Reilly stated that if this tower is approved and a few years from now another tower is proposed close by, the Town can require that the second company utilizes this tower instead of constructing another. He noted, however, that sometimes it is not feasible to co-locate on an existing tower for whatever reason.

Mr. Clark asked Attorney Cheney why disguising the tower as an operational windmill would not work. Attorney Cheney responded that a windmill would have to be built with blades, electricity would be generated and antennas could not be located where the blades are. He stated that if a windmill already existed on this site, that would be perfect because the tower could be hung off the windmill. He stated that because a windmill does not exist on this site, the applicant

would be adding a structure (windmill) to the site, and they might as well add the cellular tower in that case.

Mr. Clark stated that a windmill is more consistent with the agricultural character of that neighborhood, and a windmill would look better than a cellular tower. He noted that a windmill might have added benefits for the landowner.

Attorney Cheney stated that the people at Stealth Concealment Solutions indicated that they have never done a cellular tower camouflaged as a windmill on the East Coast before.

Chairman O'Connell stated that because Stealth Concealment Solutions indicated it has not ever constructed a cellular tower camouflaged as a windmill on the East Coast, this must mean they have constructed them on the West Coast.

Mr. Clark made the following motion regarding SEQR, seconded by Mr. Chapman:

**“Whereas**, the Town of Hamburg received a Tower Special Use Permit from Capital Telecom Holdings, LLC, as agent for Bell Atlantic Systems of Allentown, Inc. d/b/a Verizon Wireless for the construction of a new telecommunications tower (cell tower) to be located at 3081 Pleasant Avenue; and

**Whereas**, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQR) of the Environmental Conservation Law, the Hamburg Planning Board has conducted an environmental review of this proposed new cell tower; and

**Whereas**, the Town has identified that there are no other Permitting or Approval agencies for this action; and

**WHEREAS**, a public hearing was held regarding the proposed project, and comments were received, and

**Whereas**, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQR) of the Environmental Conservation Law, the Hamburg Planning Board has reviewed part 1 of the FEA and completed part 2 and 3 of the FEA and reviewed the criteria for determining significance in accordance with Section 617.7 of SEQR.

**Now, Therefore, Be it Resolved** that the Hamburg Planning Board, in accordance with the State Environmental Quality Review Act (SEQR), 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.”

The vote on the motion was as follows:

- Mr. Mahoney: aye
- Mr. Chapman: aye
- Mr. Clark: nay
- Chairman O'Connell: nay
- Mr. Schawel: aye
- Mr. Monaco: nay

Mr. Geraci: aye

In response to a question from Mr. Mahoney, Attorney Cheney stated that usually an eight-foot high chain link fence is installed around the base of the cellular tower.

Mr. Reilly informed Attorney Cheney that the Town Code does not allow barbed wire at the top of fences.

A member of the audience, Tony Gullo, 3100 Pleasant Avenue, asked what the Board will do if he has someone measure the RF waves once the cellular tower is installed and it is determined that the RF waves are outside the acceptable levels for humans living near the site. Chairman O'Connell responded that in that case, Mr. Gullo would have to contact the Federal Communications Commission, and the tower would be shut down.

Chairman O'Connell stated that he would like any new mounts on the tower that are proposed to be subject to further Planning Board review.

Mr. Bowling stated that if the base of the tower is visible from any neighboring or adjacent properties or any public right-of-way, the Planning Board can request that landscaping be installed around it for screening.

Mr. Reilly stated that the base would be surrounded by an eight-foot high chain link fence with fabric, so it will not be readily visible. Chairman O'Connell concurred with Mr. Reilly.

Mr. Clark made the following motion regarding the requested Tower Special Permit, seconded by Mr. Mahoney:

"Based on the information submitted for a Tower Special Permit, as well as the Full Environmental Assessment Form (FEAF), the Planning Board has determined that the proposal to erect a cellular tower at 3081 Pleasant Avenue, which is a Type I Action under SEQR, will not result in any significant adverse environmental impact and a Negative Declaration was issued.

The Planning Board, in reviewing this proposed Tower Special Permit application, has determined, in accordance with Section 280-334, that:

- The tower is proposed in an R-A District, which is the least favorable site preferred by the Town of Hamburg. However, the applicant has indicated that there is a gap in cellular coverage and there are no other preferred locations available and no existing towers were available for use, therefore this property was chosen. The Town and the applicant have researched utilizing the Town property on Smith Road and found that site unusable based on wetlands and other site problems.
- The tower will be a monopole tower of 158 feet in height.
- The applicant has shown that he has made good-faith efforts to co-locate on existing towers or other available and appropriate structures and/or to construct the new tower near existing towers in order to consolidate any visual disturbances.
- The applicant has submitted the materials required in Section 280-333 of the Hamburg Zoning Code.
- There are no historic buildings or districts in the area of this tower.
- The tower is designed and sited so as to avoid application of FAA lighting and painting requirements. The tower will, however, be artificially lighted in the interest of safety because of its proximity to the Mercy Flight area of operation.

- The tower has been reviewed in accordance with section 280-334 B. Aesthetics. The tower is to be located at the rear of the site, and the bottom of the tower and equipment will not be visible from the residents on Pleasant Avenue. The top of the tower will extend above the tree-line and will be visible from some areas along Pleasant.
- The applicant has submitted a copy of its policy regarding co-location on the proposed tower with other potential future applicants.

Therefore, based on the SEQR Negative Declaration, the information submitted and the Tower Special Permit discussion, the Planning Board approves the issuance of a Tower Special Permit with the following conditions:

1. Approval is contingent upon the Engineering Department comment letter dated September 5, 2018 or any updated memos.
2. To reduce the visible impacts of this tower in this residential area, all antennas (present, proposed and any future antennae) to be placed on the tower shall be flush mounted or a maximum size of six-foot mounts.
3. The tower will be of a non-reflective finish and will be painted grey .
4. The tower will be a monopole.
5. 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.
6. Access to the site shall be maintained and free from obstructions, and one parking space shall be provided to assure adequate emergency and service access.
7. The propane tank in the area of the cell tower shall be removed or relocated.
8. The tower shall be enclosed by a fence not less than eight (8) feet in height.
9. The applicant shall remove the tower if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months. The applicant shall provide a demolition bond in an amount as determined by the Town for purposes of removing the telecommunications facility in case the applicant fails to do so as required by the Town law.
10. Every three (3) years after the tower is constructed, the applicant shall provide a certification from a qualified professional engineer certifying that the tower meets applicable structural safety standards.
11. The tower shall be maintained in good order and repair.
12. The tower will have a solid red light on the top. The light will be shielded to not illuminate adjacent properties.
13. If any modifications of these conditions or additional mounts are requested, additional Planning Board approval will be required. This is because the tower is located in a residential area, which is the least preferred area.”

Carried.

Engineering Department comments have been filed with the Planning Department.

**OTHER BUSINESS**

Mr. Schawel made a motion, seconded by Mr. Monaco, to approve the minutes of September 5, 2018. Carried.

Mr. Schawel made a motion, seconded by Mr. Mahoney, to adjourn the meeting. The meeting was adjourned at 8:20 P.M.

Respectfully submitted,  
Doug Schawel, Secretary  
September 28, 2018