

Town of Harpersfield  
Planning Board

Minutes: August 28, 2024

Present: W. Keller, F. Ciulla, A. Gallagher, D. Darling and Doug Cole.

Also present: L. Page, B. McKertich, N. Brower, A. Yagelski, Sean Murphy, Joe Graves, Jared Lusk, Toni Woods, Marlena Nickerson, Lawrence Nickerson, Christine Bellinger, Richard Bellinger, Ray Estus, Ted Dziewit, Alyssa Marschilok, Robert Prush and Jack Redmund.

Doug Cole was introduced as the new alternate member of the planning board

In the absence of D. King, D. Cole will be a voting member of the planning board tonight.

Minutes of the July 31, 2004 meeting were approved on a motion by D. Darling, with a second by A. Gallagher with the following correction: a motion was made by D. King, with a second by A. Gallagher to approve a six month extension (until Oct. 26) of the site plan applications for Bruce Hill Solar A and B as the applicant continues to negotiate a road use agreement that includes these two projects with Solar C. Motion carried 5-0. This motion carried 5-0.

D. Darling then read the public hearing notice for a Verizon Wireless Communications Tower Project to be located on property owned by the town of Harpersfield. Notice was published July 31, 2024 in the Daily Star.

Jared Lusk of Nixon Peabody LLP was present with Jack Redmond of Pyramid Network Services (Verizon). Jared Lusk provided a summary of the project. They made application to the town of Harpersfield on June 12 to build a communications tower on town property. It has the capacity for nine antennas and is being constructed due to lack of cell phone coverage in the vicinity. He provided coverage maps for the public to view. They will lease 2.7 acres from the town. He explained the need for a variance to the town's communications tower law. The variance was adopted by the town board. He said tower folds rather than falling in a straight line and the collapse of a tower is unlikely to exceed the fall zone. They are asking the planning board to reduce to fall zone to 81 feet.

N. Brower explained the county planning department recommended approval of the project.

W. Keller said there is room for more than just what Verizon can use. Are the other towers in the area also Verizon towers and can they link up with other providers.

Lusk said it is unknown who is located on the adjacent Verizon towers or if they are Verizon towers. This one will be a Verizon tower and is designed to hold additional co-locations with enough space to consider future co-location. The law does facilitate town and federal law and they have no authority to limit who uses the towers. N. Brower said the EMS likes to keep a space open for county emergencies and Lusk said they can make space as long as the county follows the proper criteria. and there is no interference with the existing facility.

Marlena Nickerson asked if any research has been done on any potential health issues Lusk said the federal government has set the standard on RF exposure. So long as a wireless carrier complies with

our law law, we deem it safe. Our exposure limit is x, which is less than one percent of the federal exposure limit. There would be more exposure by having the cell phone to your ear.

Ted Dziejwit, an adjacent property owner asked about additional towers and the compound with an additional backup generator and batteries that will be located 81 feet from his property line

Ray Estus noted the location is 100 feet below the top of the mountain and wondered how it was going to help the problem for those in the valley and on the other side of the mountain. Lusk said the planning board asked the same question. It will not satisfy all voids, but will greatly improve the service over what it is now. He said he cannot change the topography of the land.

R. Prush said the Davenport tower has a dead zone. He lives on Parker Schoolhouse Road Extension. Lusk reiterated the location is to improve existing service, but it will not solve all of the problems of cell service in the vicinity. He said they share towers and there are some overlaps. They are trying to get the best coverage despite the extreme topography. They can't fill in every hole.

D. Darling said they can't guarantee any more than what they are proposing in the green areas as shown on the maps. Verizon is trying to cover as much as it can with difficult terrain.

M. Nickerson asked that if the tower were higher up the mountain if they could cover those areas.

T. Dziejwit asked why the set back from his property is just 81 feet when the others are much further. The distance refers to existing facilities. Since he has no buildings anyone could build on his property and within the fall zone. The difference is anyone building after the location of the tower would be aware they are building within the fall zone. Existing buildings on adjacent properties require a longer set back.

D. Darling asked what the site would look like on the ground There will be gravel inside the compound with a seven-foot high chain link fence topped with one foot of barbed wire for security. There will be two metal cabinets the size of refrigerators at the base of the tower. The electric service will be underground as well as the fiber optics.

D. Cole asked if there would be a Knox Box provided for first responders. He said there would be a lock that the fire department could cut in the event of an emergency or they could provide a Knox box.

Someone asked if the waiver was already established and he said the planning board would be the ones to grant the waiver or not.

Someone asked if there would be home wireless access. He said it is possible but they must be close enough and have a box that is rented on a monthly basis.

F. Ciulla asked if the 150 feet before the antennas, if it doesn't collapse, can it fall 150 feet into a house. It is unlikely, but possible.

R. Prush asked who is paying for it. Verizon.

A motion was made by A. Gallagher, with a second by W. Keller to close the public hearing at 8 p.m.. Motion carried 5-0.

D. Darling then read the public hearing notice for the doggie day care and boarding facility. in the name of Kenneth Marschilok. Notice was published July 31, 2024 in the Daily Star.

Alyssa Marschilok was present to provide an outline of the proposed site and its purpose. The business will be known as Muddy Pawz.

She said the yard is already enclosed.

Chris Bellinger, a neighbor, asked how many dogs she intends to have at the day care and boarding. She said 8 to 10 at the most, depending on the size of the dogs. Smaller dogs would allow her to accommodate more.

How would she stop them from barking. She has a high-pitched whistle which she said works. It stops them from barking.

Richard Bellinger said they are barking all the time. She said she just received the device.

Ray Estus referred to an article in The Reporter saying there are few neighbors. He said there are four homes within 500 feet. A. Marschilok said she would have no problem with the neighbors coming to her to say the dogs are barking too much.

Marlena Nickerson asked how late the dogs would be at the day care. They will be inside by 7 or 8 p.m..

L. Nickerson said that works if they are there to watch the dogs, but what about when they are not there, how would they keep them from barking.

He said they have neighbors with dogs and he is fine with that. They do bark. He is not interested in a dog compound with 8 or 10 dogs barking. When you aren't home your dogs bark for an hour. It's annoying, but we can live with that. Opening up a commercial enterprise. I'm not interested in that.

A. Marschilok said it will not be unsupervised.

C. Bellinger asked that when they shut them in many dogs bark more.

A. Marshilok said she doesn't know how many dogs she is going to end up with.

R. Bellinger when he takes their little dog out for a walk their dogs are barking.

R. Estus said that if it approved, what recourse will the neighbors have looking down the road. Can the planning board revisit it?

D. Darling said the planning board can't enforce anything, it would have to go to the code enforcement officer if they were in violation of the site plan approval.

R. Bellinger asked if they could guarantee the dogs are not going to get out. He said one of their dogs got out and they were chasing it all over town.

C. Bellinger asked what they were going to do for the dog waste.

A. Marschilok said she has a special dog waste septic system.

L. Nickerson said they are still going to have sludge and they can't just throw it over the bank.

M. Nickerson is concerned because their spring is right there. I don't want that waste in our spring. It's one thing to take care of your own animals, but this a lot more.

A. Marschilok has three dogs of her own and now they are going to keep eight to 10 in addition and have some stay overnight. She has accommodations for a dozen overnight.

R. Bellinger said you know what it sounds like when you walk into an animal shelter.

A. Marschilok had six dogs last week and they didn't bark. We will see, sh said. She gets what the neighbors are saying. She also does not want to listen to the barking dogs.

They have already purchased kennels and the facility is almost ready to go.

D. Darling said the planning board should do a site visit to get a good perspective of where it is and what it is doing.

T. Dziewit mentioned two letters that he dropped off. D. Darling said they would go into the record. The secretary does not have the letters for the record. He said they referred to noise and location. They will go into the record.

L. Nickerson said waste is a huge issue for him and he doesn't see anything in the plans to deal with it.

R. Bellinger made a suggestion to get the waste removed like for a regular household septic system.

A. Marschilok said she has reached out to the community on social media and there are many who feel the doggie daycare is needed. I'm not going to be irresponsible with it.

W. Keller suggested she get some literature that explains the process and chemicals used in the septic system she is proposing to use for the dog waste.

A motion was made by W. Keller, with a second by F. Ciulla to adjourn the public hearing until the September meeting and to schedule a site visit. Motion carried 5-0.

N. Brower said the Delaware County Planning Board recommended approval, but does not consider the local issues.

The planning board then reviewed the information provided by Allyson Phillips on the Verizon tower site plan proposal.. The site plan did receive approval from the county planning board. That form is on file with the town clerk.

They then reviewed the Environmental Assessment Form, going over Part I where all the answers were no. There were no other questions raised on Part I.

D. Darling then reviewed with the planning board members the Part II questions and the answers with the planning board members.

They moved on to Part III which is the Determination of Significance.

A motion was made by F. Ciulla, with a second by W. Keller, that there will be no significant impact on the environment. Motion carried 5-0.

The secretary does not have this information, which is on file with the town clerk.

D. Darling signed the SEQRA form indication and negative EAF review on a Type I action.

A. Dziejwit asked about set backs. Was the revision to the communications law for health reasons. He asked what notification was given to amend the law. He said a public hearing notice was published by the town board. He said it would seem the town would notify the neighbors.

A motion was made by W. Keller, with a second by D. Cole to adopt the resolution provided by A. Phillips for the site plan request and approval of the project under the local communications law, with Allyson to sign the SEQRA form as the preparer for a negative declaration and approving the application for the telecommunications permit and site plan. Motion carried 5-0.

Please see attached resolution forwarded from the town clerk.

The planning board then moved on to the Bruce Road Solar A, B and C discussion. A road use agreement is still not ready with concerns by the applicant over the figures provided by the consulting engineer. A. Yagelski and Delaware Engineering. Graves does not believe they should be responsible for a complete rebuild of the roadway as it is unlikely to get to that stage. Problems would be noted well ahead of that to be repaired. He believes the numbers are false. He said the roadway is not 20 feet wide in all places and there are no shoulders as all, which is referred to in the draft agreement.

He asked that the shoulders be taken out and the actual width of the roadway be used for the computations.

There was also discussion over the route to the site which is outlined as O'Dell Lake Road to Peters Road to Bruce Hill, due to the pitch of the roadway. There was discussion to allow vehicles that wouldn't be affected by the pitch to use the shorter Rt. 23 to Bruce Hill Road. The equipment will be extreme in weight and described as overweight with a concern it will seriously damage the type of road surfaces that are currently in place. The time of year and season the equipment is on the roadways is also part of the concern

A. Yagelski said they want to plan for the worst case scenario.

Another issue is to get the Town Highway Superintendent's input into these issues.

The computations will be adjusted as to the road width based on current prices.

If they access via Bruce Hill which is a much shorter route, they are asking that the \$20,000 for engineering fees for the road analysis and on site examination be eliminated., because the costs would be lower to travel the shorter route.

The numbers will be reworked.

D. Darling said it is important to have the highway superintendent involved.

R. McKertich said a solid number is needed.

D. Cole said there can be no moving forward without the highway superintendent.

More accurate calculations will be worked, eliminating the road shoulders and will include something that will allow the town board the ability to reduce the calculations if feasible with Bruce Hill from Rt. 10 which is not included in the estimate.

There was a compromise on the 20,000 with 17,500 for two days to document the existing road conditions and the number of site visits.

It was discussed that the community host agreement is needed for oversight of the project and to account for an engineer for the town and a peer review and assistance to the highway superintendent. An account needs to be established that can be replenished as needed when it is reduced to a certain amount. It will require allowing the applicant to see all the related bills.

The decommission plan included a \$300,000 estimate for salvage value, but does not include tipping fees at the landfill.

A. Yagelski said it is not a perfect science and the market in the future is not know. Due to the vagueness and decommissioning of 30 years, they reduced the decommissioning bond by the calculated salvage value of \$47,000. However when you add the tipping fees in, it results in relatively the same cost as proposed. It will be revisited for values every five years, which is the reasoning to itemize the costs so if it needs adjustment it will be easier to adjust.

D. Darling suggest a three year rather than a five year review to keep the figures more accurate. The salvage value is the main issue and it can't be walked back.

Due to the lateness of the hour, the SEQRA review was postponed until the September meeting.

In the meantime A. Yagelski will write it up for planning board review and resolutions will be prepared for that meeting for the SEQRA review and as well as a possible approval of the project, with the A and B project extension.

SEQRA will address the cumulative impacts resulting from A and B. All will hit back to the declaration amendments for A and B and the community and road use agreements.

There was no discussion of A and B for decommissioning.

J. Graves asked why it would be revisited as the decommissioning plans for Solar A and B were already approved.

On a motion by F. Ciulla, with a second by W. Keller, the site plan amendment for the Weaver Road Solar Project as approved for the planting of blue juniper for visual screening. Motion carried 5-0. The secretary does not have a copy of this change and it should be on file with the town clerk.

A site plan visit for Muddy Pawz, doggie day care was set for Friday, Aug. 30 at 5 p.m.

On a motion by A. Gallagher, with a second by W. Keller, the meeting was adjourned at 10:22 p.m..  
Motion carried 5-0.

Respectfully submitted,

Liz Page  
Recording secretary

**RESOLUTION  
HARPERSFIELD PLANNING BOARD**

APPLICATION FOR TELECOMMUNICATIONS FACILITY SITING PERMIT AND SITE PLAN APPROVAL  
BELL ATLANTIC MOBILE SYSTEMS, LLC D/B/A VERIZON WIRELESS  
RESOLUTION ISSUING A NEGATIVE DECLARATION AND  
APPROVING APPLICATION FOR TELECOMMUNICATIONS FACILITY PERMIT AND SITE PLAN

**DATE: August 28, 2024**

**WHEREAS**, Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless (“Applicant”) is proposing the construction and operation of a 150’ telecommunications tower (plus 4’ lightning rod) on Town-owned property located adjacent to 25399 State Highway 23 (SBL 28-2-31.1) (“Project”); and

**WHEREAS**, the Applicant has applied for a telecommunications facility permit and site plan approval (the “Application”) from the Planning Board of the Town of Harpersfield (“Planning Board”) which are actions subject to review under the New York State Environmental Quality Review Act and the Regulations promulgated thereunder, (collectively “SEQRA”); and

**WHEREAS**, the Applicant has prepared and submitted to the Planning Board a Full Environmental Assessment Form (“EAF”) as part of the application; and

**WHEREAS**, the Project involves the construction of a structure exceeding 100 feet above original ground level in a locality without any zoning regulation pertaining to height which is a Type I action pursuant to 6 NYCRR 617.6(a)(7); and

**WHEREAS**, the Planning Board’s review and approval of a telecommunications permit and site plan are the only discretionary approvals identified in Part I of the FEAF. Therefore, pursuant to 6 NYCRR 617.6(b) the Planning Board classified the action as a Type I action and declared itself Leage Agency under SEQRA; and

**WHEREAS**, a public hearing on the proposed local law was duly noticed and held on August 28, 2024; and

**WHEREAS**, the application was referred to the County Planning Department pursuant to GML 239-m and the County Planning Board recommended approval without modifications; and

**WHEREAS**, the Town Board has considered comments received on the application; and

**WHEREAS**, the Town Board has duly considered the contents of the FEAF and completed Parts 2 and 3 thereof; and

**WHEREAS**, the Town Board has identified the relevant areas of environmental inquiry, took a hard look at them and determined the project will not result in any significant environmental impacts thereby complying with the mandates of the State Environmental Quality Review Act; and

**WHEREAS**, the Planning Board has duly considered the standards for approval under the Town of Harpersfield Site Plan Review Law and Communications Towers and Facilities Law, as amended, and the information in the record related thereto.

**THEREFORE, IT IS HEREBY RESOLVED**, by the Planning Board of the Town of Harpersfield, as follows:

1. The Planning Board thereby authorizes filing of the Negative Declaration (attached hereto and made a part hereof), according to SEQRA, 6 NYCRR Part 617.
2. The Planning Board hereby adopts as its findings the information in Exhibit D of the Application which sets forth proof of compliance with the Town of Harpersfield Communications Towers and Facilities Law.

3. The Planning Board hereby approves the Application, including the Applicants request for a setback waiver under the Town of Harpersfield Communications Towers and Facilities Law. The Planning Board hereby finds good cause has been shown for granting such a waiver.
4. The Planning Board Clerk, with the assistance of the Town Clerk, and/or Attorney for the Town is hereby authorized and directed to take such other and further actions as are necessary to effectuate the purposes of this Resolution.

**WHEREUPON**, this Resolution was declared adopted by the Planning Board of the Town of Harpersfield:

The motion was moved by Walt Keller

The motion was seconded by Doug Cole

The vote was as follows:

AYE: 5  
NO: 0  
ABSENT: