

**MINUTES OF THE DECEMBER 13, 2010 MEETING OF THE TOWN BOARD
OF THE TOWN OF POUND RIDGE HELD AT CONANT HALL, 257
WESTCHESTER AVENUE, POUND RIDGE, N.Y. COMMENCING AT 7:00 P.M.**

PRESENT: SUPERVISOR GARY WARSHAUER; COUNCIL MEMBERS: PAUL
McCONVILLE AND RICHARD LYMAN

ALSO PRESENT: TOWN ATTORNEY, JAMES SULLIVAN
DEPUTY SUPERVISOR, JONATHAN POWERS
TOWN CLERK, JOANNE PACE

ABSENT: COUNCIL MEMBERS: PETER FALCO AND DANIEL PASCHKES

CALL TO ORDER: Supervisor Warshauer called the meeting to order at 7:00 p.m.

**PUBLIC HEARING: Continuation of the Public Hearing on the T-Mobile
application for a Cell Tower at the Ambulance Corps property in Scotts Corners.**

The Town Board and the Planning Board held a joint meeting as a continuation of the Public Hearing for a cell tower at the ambulance corps property in Scotts Corners.

Board Action: Motion by Councilman Lyman, seconded by Councilman McConville, all voting aye to open the Public Hearing on the T-Mobile application for a Cell Tower at the Ambulance Corps property in Scotts Corners.

Supervisor Warshauer asked the applicant's attorney Robert Gaudio to present the specifics of the proposal for the cell tower at the ambulance corps property as well as respond to some of the comments made at the last meeting regarding that site. He also asked if he would discuss the other sites that were looked at. Supervisor Warshauer said that on Friday, December 10, 2010 the Town was served with a Federal Court Action by the applicant against the Town, the Planning Board and Building Inspector James Perry. The drift of it is seeking the Court to give a declaratory judgment concerning their rights with regards to the establishment of that cell tower facility and some injunctive relief having to do with ordering the Town to see that all local permits as required for the construction of that particular facility are issued on a timely basis. The declaratory judgment, in simple words, is that they have a right to put the cell tower there. The Plaintiff seeks an injunction from the Court directing the Town to grant the application and all approvals required to construct the facility.

Robert Gaudio, on behalf of T-Mobile with the law firm of Snyder and Snyder, said that since the last meeting there were a couple of updates and responses. They did try to negotiate with the attorney for the Oceanus Property and provided their comments on November 17, 2010. They did follow up again on December 7, 2010 and at that time he said he was still waiting for direction from his client and the client's engineers. T-Mobile hasn't heard anything since. Again, T-Mobile believes that property is not leasable. Mr. Gaudio set up the site plan for the Ambulance Corps property site. He went on to

explain the exact location of the cell tower which will be behind the Ambulance building with the center being the 130' pole. They have proposed as a co-applicant with AT&T equipment who is the owner of the approximately 220 square foot concrete pad with equipment cabinets. T-Mobile's equipment would be adjacent to that on approximately a 200 square foot concrete pad with equipment cabinets. He went on to explain everything that would be at the facility. He mentioned one of the comments made at the last meeting regarding the possibility of the cell tower falling across Westchester Ave. and said that would never happen. The cell tower is a man-made structure designed to meet all building requirements and more. The distance from the center of the tower to the pavement of Westchester Avenue is 136' and the tower is 130', so it would never reach the street if it did fall. There was also much discussion regarding the computer rendering of the cell tower and it is hard to show a better rendering. There are a few choices on how the cell tower could look example, a monopole and tree pole or a flag pole. The most efficient seems to be the tree pole. Each carrier would use approximately 10' of the pole. There would be five carriers on the cell tower and there is enough room on that site to accommodate the ground space for all the carriers and space for a generator. The five carriers would be T-Mobile, Sprint/Nextel, AT & T, Verizon and possibly Metro PCS. Each applicant would be responsible for the care of their equipment and most of the maintenance is done off-site.

There was a question as to whether or not there would be a need for any variances and Mr. Gaudioso said that T-Mobile would ask for five (5) waivers. There are four (4) which relate to the set back of the property line and one (1) waiver regarding the 2,500' set back to a local landmark and 35 Trinity Pass Road is only 808' away.

Some of the concerned residents spoke up regarding the aesthetics and the thickness of the pole. Mr. Gaudioso said that the monopoles range between 36" and 42" at the base and roughly 24" at the top.

Peter Clough, Westchester Avenue, said that the Town Board should make a decision at this point. There is no need for additional studies. This has been going on long enough. Supervisor Warshauer said that one of the main concerns is if the tower is built at the Ambulance Corps, it wouldn't provide the needs for the rest of the Town and there would be a need for another tower. The Town Board is trying to minimize the number of cell towers in Town.

Elyse Arnow, Fancher Road, asked if a tower were built at the Hsu property, could they say that there wouldn't be a need for any other cell towers in Town. She wanted someone to tell her definitively that there wouldn't be a need for additional cell towers and the Town Board couldn't say that definitively.

Steve Kushner, Planning Board member, said that no one can speak definitively for the carriers; however, the Boards can say that the Hsu or CH State Holding properties are much better sites for more coverage.

Elyse Arnow and a number of other residents were adamant about putting the cell tower on commercial properties and not to burden residential properties. Placing the cell tower on residential property is an environmental justice issue.

John Nathan, Upper Shad Road, commented that in T-Mobile's application on page 19 section 21, Distributed Antenna System (DAS), as demonstrated by the December PierCon Report and confirmed by the December RCC Report, DAS is "an impractical and unfeasible solution for the application." Mr. Nathan said that if you read that report, you will see that it is dated December 2008. He said that things do change and he feels T-Mobile did not update the technology assessment with respect to the DAS system. He also offered to donate his time to work with the Town Board in defense of this lawsuit.

Anthony Morando, attorney for A T & T, said that they have been monitoring this process and was present at the meeting supporting the T-Mobile application.

Another resident from Trinity Pass made a few comments regarding the possibility of putting a cell tower on the Hsu property. She feels we have to worry more about the families near the cell tower and the health risks more than worrying about the carriers and coverage. She is OK with putting it at the Ambulance Corps or in the business district but it shouldn't be put on residential property because it may also lower real estate values.

Peter Avellino, Pine Drive, asked if T-Mobile has thoroughly gone through all the alternatives or fairly considered all the properties. Mr. Gaudioso recapped the findings on 24 properties and most of them would not work.

Clay Fowler, Planning Board Chair, asked about the property behind the Scotts Corners Market and feels strongly that it should be considered. Mr. Gaudioso said that it would be a site to consider but they have been unable to get a response from the owner of the property. They tried back on April 15, 2009 and have not heard from anyone since. It might give slightly less coverage; however, it would be less of an eyesore. Mr. Gaudioso was told to reintroduce that site.

Supervisor Warshauer said that he respects everything that has been said and the priority of the Town Board and the Planning Board is still to look at the overall impact to the Town and to minimize that impact. If we were to put the cell tower on the Hsu property, the ultimate number of cell towers in Town would be decreased. He is going to ask the applicant to pursue the Scotts Corners Market site. He is not sure if we would be acting appropriately if we completely disregarded the Hsu and CH State Holding properties.

Melinda Avellino, Pine Drive, commented that the Town Board is looking to minimize the number of towers, but the drawbacks are the impact on the residential properties. She asked that the Town Board consider possibly more towers that are less intrusive and not as disturbing to the residents of Pound Ridge.

Santo Borsellino, Rolling Meadow Lane, gave a Power Point presentation on the Hsu site showing the coverage areas. He went on to say that a lot of the actual cell tower coverage is open space land. The overwhelming benefit to the Hsu property is not actually what it seems. He hopes that the two Boards will seriously look at this and consider not putting a cell tower on that property.

Peter Clough, Westchester Avenue, said he doesn't understand prolonging this. He wants

to know the protocol for a decision. How many new sites and technologies are going to come out before a decision is made. He is very frustrated over the indecisiveness.

Supervisor Warshauer said that this is a joint effort with the Planning Board making recommendations to the Town Board and the Town Board making decisions. He hopes to have the applicant take 30 days to look into the alternate site at Scotts Corners Market and then at the meeting on 1/13/11 have a specific discussion on the alternate sites and then continue to 2/10/11 to a decision.

Robert Gaudio said that unless the Scotts Corners Market site is approvable, they will not go any further on that alternative site. The Planning Board and the Town Board both agreed that the alternative site is approvable. They also agreed that the Hsu property should still be negotiated. There would actually be four (4) sites considered for serious discussion. The sites would be the Hsu property, CH State Holding, Ambulance Corps and Scotts Corners Market.

Councilmen McConville and Lyman both felt that there is the temptation to go down the lawsuit path and also to find the perfect site. There is no perfect site and there are always alternatives. We could be doing this for a number of years. The key point is that enough time has gone by, enough work has been done and a lot of sites have been looked at and he agrees that it is time for a decision. They are fine with the Supervisor's timetable.

Board Action: Motion by Councilman Lyman, seconded by Councilman McConville, all voting aye to continue the Public Hearing on the T-Mobile application for a Cell Tower at the Ambulance Corps property in Scotts Corners to Thursday, January 13, 2011 at 7:00 p.m. at Conant Hall.

There being no further business to come before the Town Board, Supervisor Warshauer adjourned the meeting at 10:00 p.m.

Joanne Pace

Dated at Pound Ridge, New York

December 15, 2010