REGULAR MEETING OF THE TOWN OF EVANS PLANNING BOARD WEDNESDAY, DECEMBER 13, 2017

MEMBERS PRESENT: T. Catalano, A. Sellers, J. McEvoy, B. Bergum, M. Connors, L. Whittinghill

EXCUSED: J. Pinter

ALSO PRESENT: Roberta Rappoccio, Town of Evans Director of Planning & Community Development
Jared Lusk, Esq. Nixon Peabody, LLP, Representative for Verizon Wireless

Planning Board Chairman, Ted Catalano opened the meeting at 7:00 P.M. The meeting took place in the Court Room of the Evans Municipal Center, Erie Road, Angola, NY 14006.

Chairman Catalano: : I would like to welcome everyone to the December 13, 2017 Planning Board meeting. Before we begin tonight's meeting we have some housekeeping we need to take care of. Regarding minutes from the November 29th, 2017 meeting; are there any additions, corrections or questions or may I have a motion to accept them as submitted.

Mr. McEvoy: Motion to accept the minutes.
Mr. Bergum: Second.

Vote: All in favor.

Chairman Catalano: *Motion is carried.* The first item on the agenda this evening is a:

- **Re-approval of Site Plan Review** – for a 145' cellular telecommunication tower, plus a 4' lightning rod, to be located at 7929 Dennis Rd., Angola, NY (Robert & Linda McFarland property), SBL# 220.00-2-11.21. Petitioner: Bell Atlantic Mobile Systems of Allentown, Inc., d/b/a Verizon Wireless, One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920

History –

- Application was filed for this project on February 2, 2017 and it was brought before the Planning Board at their February 8th and March 8th Work Sessions for review. The project was then brought before the public at the Planning Board Meeting on March 22, 2017 where it was tabled awaiting comments from the NYS Department of Environmental Conservation.

- The project was once again reviewed at a Planning Board Work Session on April 12, 2017 where the Planning Director notified the Board the NYS State Historic Preservation Office had determined the need for further review before the project could move forward. Subsequently the project was brought before the public at the Planning Board Meeting on April 26th at which time it was once again tabled, this time awaiting comment from the NYS, State Historic Preservation Office.

- All necessary comments were received and the project was brought back to the Planning Board on October 25, 2017 for further review and the project was approved and conditioned upon the Town Board Special Permit approval and issuance of a SEQR negative declaration.

- A public hearing was held on December 6, 2017 by the Town Board for the project; the Town Board issued a SEQR Negative Declaration and voted to approve the petition for a Tower Special Permit with the condition of re-approval by the Planning Board.

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Outside agency reviews –

- The developer has begun the process of securing a wetlands permit through the New York State Department of Environmental Conservation. The Planning Office and Code Enforcement Office must be copied on all correspondence between the applicant and these agencies, including any permits. If any approvals are granted they must be conditioned upon the developer meeting the requirements of that agency.

Chairman Catalano: At this time I will ask the applicant and/or his representative to address the Planning Board with any further information about the project.

Mr. Jared C. Lusk, Esq, Nixon Peabody, LLP, 1300 Clinton Square, Rochester, NY 14604: Just briefly, at the last meeting of the Town Council there was a concerned neighbor, Ms. Hoch, and unbeknownst to us without the opportunity to respond to it there was a property values appraisal that was submitted. I still have yet to see it, but Ms. Hoch and her counsel indicated, and referenced the fact, that cell towers actually reduce property values in the area. Without having the opportunity to actually read it, I thought it best for the Planning Board's reference, that I submit to you an article from a trade magazine (a legal magazine) that I will read a summary of without boring you. In three separate property appraisals that Verizon had completed over the years of a market analysis. The article, if you were to look at it for the record, this is an analysis of an AT&T study; a court case where they discuss property values. I'm looking at page 14 of the article that actually starts I believe on page 12, so three or four in, but on page 14 of the article and it is on the left side about the middle, if you were to read they discuss the different property values and it reads: "in sum then, the case of the Sussex County temporary towers confirms what studies have shown for years, that cell towers have become part of the suburban landscape and have no appreciable effect on value. Like telephone poles, power lines, street lights and other infrastructure of modern life, cell towers fade into the background and draw no more attention than other infrastructure." Again, that wasn't paid for by Verizon Wireless, it was an article. On the next page it reads "Conclusion: studies have long shown that cell towers have no appreciable effect on property values, but opponents of towers and some boards that consider these applications, refuse to believe these studies. Nevertheless, the results are supported by impericable data and although it may seem counter intuitive, the results ultimately make sense. As one appraiser in the AT&T observed, a cell tower pole, a single monopole, really is an expected thing in today's world. People have been making purchase decisions for many years in the presence of those lines and the other uses like gas pumps and convenient stores and we just didn't see any evidence of this one particular structure having a unique influence on property values. The AT&T case is especially interesting and uniquely helpful because it allowed the cell tower applicant to demonstrate that there would be no affect on property values for the very location and issue." Again this was a trade article.

Then previously I had done appraisal reports for other cell sites in upstate New York, one of them done for a Town called Pompey near Syracuse, if any of you are familiar with that area; a very contentious cell site out there. And the next one, on page 27, there is a whole bunch of data that was provided here. It reads: "we conclude that significant market data exists which confirms that cell towers do not negatively impact improved residential sale prices. We acknowledge that a stigma can be present in certain sales, such as a kitchen that is undesirable color or a house with undersized rooms. Our experience in other studies has shown the initial stigma impacts tend to vanish after a relatively short period of time has passed and the presence of a tower starts blending in with the rest of the landscape." That seems to be consistent with the other article. "This report has analyzed several sets of paired sales within and outside the view of a cell tower. Our conclusion from analysis of this market data clearly shows that cell towers do not negatively affect nearby residential values." Then there were two other appraisals that concluded the same thing. Then if you recall, back from Tab 'U', all the information that I provided to you, there was an article entitled '11 Must Haves to Sell to Millennial Home Buyers' and again technology was ranked higher than school districts in terms of having reliable wireless telecommunications. So while Ms. Hoch and her attorney could agree, I haven't had the opportunity to view the appraisal and have no idea the merits of it, but I can tell you that we certainly look at this issue and based on what we're hearing and the complaints that we get for the lack of reliable service in areas, reliable service is

important to anything else that people are looking for in houses, at least Millennias. Thank you and again I'd appreciate the re-adoption of the approval resolution. Thank you very much.

Chairman Catalano: Thank you. At this time we are going to have Anne read a letter into the record.

Ms. Sellers: I have one letter from Hildegarde Hoch to the Evans Town Board, December 11, 2017 and I will read it just as its written (see attached).

Chairman Catalano: Thank you Anne. Are there any questions or comments from the Board or Planning Director before I open the floor to the public?

Ms. Sellers: I would like to make a comment that although we haven't had a great deal of time to review the report from Verizon, it is obvious from page 10 to page 26 with all of the sites listed, that the preponderance of homes were not adversely affected in their resale prices.

Chairman Catalano: I am a licensed appraiser and I read the report and I heard your comment. Do I feel there is a negative effect with a cell tower? To a certain degree there is a negative effect on the very close properties if they are developed, but there is a bigger effect on the properties that are going to get much better service because of the black-out zone in our town. Those values are going to be enhanced by the cell tower. So the percentage of values, decreasing and increasing, the percentage of values increasing in my opinion is greater than the one or two properties that may see a slight decrease in their property; and that's only until the neighborhood gets used to seeing the tower, where you don't even realize the tower is even there anymore. After a year people don't even know there is a tower there. I've done appraisals throughout all of Erie, Niagara, Chautauqua, Wyoming, Orleans Counties; all of those counties and that's really what happens with those towers.

Ms. Whittinghill: I have to agree with Ted. It is a part of our suburban landscape; we're in the 21st Century. It will adversely impact properties, especially in that area, if there is no service provided. I think this is a real important addition to that area, especially for this community.

Mr. Lusk: If you guys were at the Town Board meeting, I may have said this and I apologize, but that appraisal from Irondequoit was a hotly contested cell tower that went all the way to the federal court in Rochester, Western District of New York. There were a whole bunch of neighbors that were opposed, not just one or two as you've seen with Mrs. Hoch. The court finally said you have to issue them the permit. And again it was loud opposition and it really got crazy and I could say as a officer of the court that I was in Irondequoit maybe a year or two later and one of the Planning staff pulled me into her office and said I have a funny story to tell you. The court ordered the construction of the tower and the tower company came in and got their building permit and they built the tower and one of the biggest opponents to the project came into the office one day and asked when they were going to start building the cell tower? The lady replied, "It's been up for six months"; the person questioning it had no idea. Again, not that you're not going to see it, maybe she wasn't a direct neighbor, but again it's to the point again about blending into the environment and as I said in that letter, they have to go somewhere. The Town Board set the standards for these things to be placed and this meets all the standards that it set, and when it set the zoning requirements in the conditions to place these things they must have realized there were places in Town that a tower could be placed. There are impacts, some areas have the commercial zone right next to the residential, sometimes there's a gas station or a store or something else, but these are the choices that we make when we adopt zoning codes and place them. Thank you.

Chairman Catalano: No, thank you.

Ms. Sellers: We do take Ms. Hoch's complaint very seriously. She is of my older generation; we aren't as used to seeing these on the horizon. I think that I make great use of cell towers, so I don't want to complain too much, but we do take that very seriously and had we been able to move it and provide the coverage and the service that the Town needs, we would have no reason not to. We considered moving it to the wetland as her attorney had suggested, but we saw no advantage in her viewing it in the distance. We looked at the other properties and we saw only disadvantage to the needs of the Town.

Chairman Catalano: At this time I will open the floor to the public – please step up to the microphone, state your name and address, spelling your last name for the record. Is there anyone else who wishes to speak? There being no comments from the public, are there any further questions from the Planning Board? There being no further comments from the Planning Board, I will close the floor. May I please have a motion to approve the Site Plan for the Verizon Cellular Telecommunication Tower to be located at 7929 Dennis Road.

Mr. McEvoy: I'll make the motion. Whereas the Town Board of the Town of Evans approved the petition of a Tower Special Permit conditioned upon Planning Board approval of the Site Plan, therefore I would like to make a motion to approve the Site Plan based on the following reason(s):

- The action is consistent with the Town of Evans Comprehensive Plan.
- This project will constitute the use of an underutilized property.
- The action fills a gap in regional service coverage.

and with the following condition(s) added:

1. The applicant must furnish a copy of a fully executed demolition bond with the Town of Evans designated as obligee, acceptable to the Town Attorney.
2. The telecommunication company will allow the Town of Evans to place and/or co-locate emergency equipment on this tower if and when the Town finds it useful and/or necessary.
3. That the hedgerow along the northwest property line not be removed.

Mr. Bergum: Second it.

Vote: *All in favor.*

Chairman Catalano: Motion is carried. Next steps:

- The Planning Office will send a letter to the Town Board and Code Enforcement Office advising of our action this evening. Once all agency review documents and/or permits have been forwarded to the Planning and Code Enforcement Offices, you may then continue through the building permit process under the jurisdiction of the Code Enforcement Office. The Planning Office will be happy to continue to assist you as needed. Good luck and best wishes as you continue through the process.

Mr. Lusk: Thank you very much.
Chairman Catalano: Thank you everyone for attending our meeting this evening. May I please have a motion to adjourn.
Ms. Sellers: So moved.
Mr. Bergum: Second.
Chairman Catalano: The motion is carried. Good night.

Respectfully submitted by:

Debra L. Wilson

Debra L. Wilson
Secretary

Approved: 1/24/18

To the Evans Town Board December 11, 2017

Joe Boncore doesn't mind the cell tower site —

Why would he:

- ✓ His land starts about 1200' away from site, not 605' from ours (site and mine) adjoining property
- ✓ His house is approximately 1400' away, and though not a forest, surrounded by numberous forest height mature trees.
- ✓ Plus all of his land is land locked, not likely to be open for development.

If the woman who also doesn't mind the cell tower's proposed site lives down the driveway (some call it a road and owned by McFarland) closer to Bennett Road — there is more distance and a forest between her house and the proposed cell tower site. Plus she would not have enough land to make a subdivision.

It is like comparing apples and oranges. They are both fruits but not the same.

The two property owners adjoining land to McFarland's are not the same as our adjoining property to McFarlands.

Neither has 48 acres of open space and 1144' of public road exposure available for development, and as close as 605' from the cell tower site.

My home is visually fully exposed to the proposed cell tower site — theirs aren't.

H.S. Hoch