

## LIVINGSTON PLANNING BOARD

February 05, 2020

The regular meeting of the Livingston Planning Board was held February 05, 2020 and opened at 7:00.

In attendance were Chairman Phil Schmidt, Robert Bellinger, James Mc Farland, Chip Keil, John Ross, Bernie Stickles, Stephen Thibault, Martin Nayowith, and Brian Molinski.

Attorney Ted Hilscher.

Engineer Michelle Mormile.

Absent: None.

A motion to accept the minutes of the January 08 2020 was made by Bob Bellinger and 2<sup>nd</sup> by Chip Keil. All voted AYE. Motion passed.

Correspondence:

A letter was received from Livingston Fire Chief re: Luckless application.

Continue a special use permit and site plan approval by Tarpon Towers pursuant to the Livingston Town Zoning Law. The property that is the subject of the application is located at 51 Danski Road, Livingston, New York. The applicant intends to use the property for a wireless telecommunications facility.

Ben Botelho answered questions about the balloon test. The board had no problem with that. Attorney Hilscher spoke with Robert Graiff PE consulting engineer who reviewed all the application, and updated the Board with the results, including the Schneider tower there is still a gap in coverage. It was recommended to approve 130 feet height and build for expansion. The road is okay with the fire department.

Michelle Mormile spoke that the 16 foot road with a turnaround will now accommodate the fire trucks.

Attorney Hilscher has determined that the road is not a town road.

Charles Schneider commented that 2 sites are better than one. The consultant reported a gap in the coverage. Public hearing closed 7:30.

Attorney Hilscher asked the required questions. After further discussion, the Planning Board considered the SEQRA Short form questions. Attorney Hilscher read the questions and the Board answered No to all.

A motion to declare a negative declaration was made by Chip Keil and 2<sup>nd</sup> by Robert Bellinger. All present voted AYE. Motion passed.

**Resolution Approving Bell Atlantic Mobile Systems LLC for Telecommunications Tower at Danski Road, Town of Livingston**

WHEREAS the Town of Livingston Planning Board has received an application for Site Plan Review and Special Use Permit from Bell Atlantic Mobile Systems LLC and Tarpon Towers II, LLC, co-applicants, and

WHEREAS, said Planning Board has held a duly noticed public hearing on said application and received input from the public, and

WHEREAS, said Planning Board has reviewed the criteria for Site Plan Approval and approval of Special Use Permit Application found at the Livingston Zoning Law § 6.6, 6.7 and 4.36, and

WHEREAS, said Planning Board has determined the project will not result in any significant adverse environmental impacts, and

Whereas, said Planning Board now finds said application meets the provisions of the Town of Livingston Zoning Law with respect to the criteria found in said law regarding Site Plan Approval and approval of Special Use Permit Application, and

BE IT THEREFORE RESOLVED AND DETERMINED, the Planning Board hereby grants a Special Use Permit, and Site Plan Approval in accordance with the plans and specifications heretofore submitted, subject to the provisions of the Town Law, and subject to the following conditions and modifications:

- A. Said tower shall be 130' in height so as to provide for a 126' centerline.

- B. Foundations and steel shall be built with the ability to provide for the tower to be increased to 146 feet in height if necessary in the future. Any additional antennae or changes to the tower shall require full review.
- C. Access drive will be 16 feet wide and designed to accommodate emergency vehicles. Said design to be approved by the town engineer.
- D. Access drive will provide a turnaround cul-de-sac of design and size to be approved by the town engineer.
- E. Said applicant will provide a copy of a no impact letter from NYS OPRHP indicating no impact on historic resources.
- F. All maps, documents and application material from applicant shall indicate Bell Atlantic Mobile Systems LLC.
- G. In compliance with Section 4.36 of the Livingston Zoning Law, the applicant must perform as follows:
  - a. The applicant must negotiate in good faith concerning future requests for co-location on the new tower by other telecommunication providers and provide evidence of same to the Planning Board. See Zoning Law §4.36.8(c)(ii).
  - b. The applicant shall submit a copy of its FCC license upon receipt. §4.36.8(f)
  - c. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose including, but not limited to, company name, phone numbers, banners, and streamers. Accepted soil and erosion control measures should be in place during construction. §4.36.11(a)iii
  - d. No lighting shall be placed on the new tower. §4.36.11 a(iv)

- e. Existing on-site vegetation shall be preserved to the maximum extent possible. §4.36.12(a)
- f. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. §4.36.12(c)
- g. Parking shall be provided to assure adequate emergency and service access. No parking spaces shall be located in any required yard setback area. §4.36.12(d)
- h. The tower and any accessory structures shall be adequately enclosed by a gated fence, the design and height of which shall be approved by the Board and not necessarily restricted by height requirements in the Zoning Law. Use of razor wire is not permitted in such a fence. §4.36.12(e).
- i. There shall be no signs on the site except the following: a sign no greater than two square feet indicating the name of the telecommunication tower's owner(s) and operator(s) and a twenty-four hour emergency telephone number shall be posted adjacent to the entry gate. In addition, No Trespassing or other similar warning sign may be posted on the fence. All signs shall also conform to any other applicable governmental regulations. §4.36.12(f)
- j. Initial monitoring. In order to determine that any telecommunication tower or transmitting/receiving facility constructed with the approval of this Board is in compliance with FCC regulations on electromagnetic emissions, the applicant shall, after granting of the permit and within thirty days of the initiation of transmissions from that facility, pay for an independent consultant, hired by the Town of Livingston, to monitor electromagnetic frequency radiation around the tower site. The consultant shall use the most current, industry standard protocols in its monitoring. The consultant will prepare a

report of the monitoring results and submit copies to the Town Board, the Planning Board, the Zoning Enforcement Officer, the Town Clerk and the applicant. §4.36.14(a)

- k. Ongoing monitoring. After initial monitoring, the applicant shall pay for an independent consultant, hired by the town, to conduct annual monitoring tests of electromagnetic frequency radiation from the facility to assure that emissions are in compliance with current FCC regulations. The consultant will use the most current, industry-standard protocols in its monitoring. The consultant will prepare a report of the monitoring results and submit copies to the Town Board, the Board, the Zoning Enforcement Officer, the Town Clerk and the applicant. §4.36.14(b)
- l. The applicant will give access to the site for purposes of monitoring. Failure to grant such access or to pay for monitoring tests shall result in a revocation of the permit. §4.36.14(c)
- m. Excessive Emissions. Should the monitoring of electromagnetic frequency radiation from a telecommunication facility reveal the emissions exceed FCC guidelines, the owners of the facilities utilizing the site shall be so notified by the Zoning Enforcement Officer. The owners of the facilities shall submit to the Town Board, the Board, and the Zoning Enforcement Officer a plan for the reduction of emissions to a level in compliance with FCC guidelines within ten working days of receipt of the notice of non-compliance. The plan shall describe how emissions will be reduced to the FCC standard within fifteen days of the initial receipt of the notice of non-compliance. Failure to accomplish this reduction within the time frame specified above shall be a violation of the permit and subject to revocation of the permit. §4.36.14(d)
- n. Structural Inspection. Tower plans, accompanied by seismic data, shall be reviewed by the Town Engineer prior to the issuance of a building permit. Additional review by the Town Engineer during construction may also take place at the direction of the Building Code Officer or the Planning Board. The owner of the telecommunication

tower shall pay for an independent consultant (a licensed professional structural engineer), hired by the town, to conduct periodic inspections of the tower's structural integrity and safety. Towers shall be inspected every five years after the date of completion of the telecommunication tower. The independent consultant shall prepare a report of the results of the inspection and submit copies to the Town Board, the Board, the building Inspector, the Town Clerk and the applicant. §4.36.14(e)

- o. Unsafe Structure. Should the structural inspection reveal any defects in the telecommunications tower that, in the opinion of the independent consultant, render it unsafe, the owner of the tower shall within ten business days of receipt of the notification of the unsafe condition(s), submit a plan to remediate the condition(s) to the Town Board, the board, and the Building Inspector. The owner of the tower shall apply for a building permit and construction pursuant to the plan shall begin within ten days of submission of the remediation plan and shall be completed as soon as is reasonably possible. Failure to comply with the provisions of this clause shall be a violation of the special permit and subject to penalties and fines as a zoning violation. §4.36.14(f)
- p. Removal Requirements – Any telecommunication tower that ceases to operate for a period on one year shall be removed at the expense of the applicant or his, her, or its successors. Cessation of operation for the purposes herein is defined as not performing the normal functions associated with telecommunications and its equipment on a continuous and ongoing basis for a period of one year. At that time, the telecommunications tower shall be removed and a plan for the removal or reuse of accessory structures shall be presented to the Board for its approval. §4.36.15
- q. The applicant shall post a letter of credit or a performance bond in an amount to cover the cost of removal of the tower in an amount determined by the town engineer. §4.36.16

- r. The telecommunication tower and structures and facilities associated with them shall be insured by the owner against damage to persons or property in an amount to be determined by the Board. The owner shall provide a certificate of insurance to the Town Board on an annual basis. §4.36.17
- H. All fees owed to the Town of Livingston related to the expenses of the consultants hired by the Town of Livingston to review, research and make inspections and report on this application shall be paid in full prior to stamping plans or issuance of certificates of occupancy. Failure to make payments in full within 60 days of the date of approval shall render said approval null and void.
- I. By accepting plans stamped by Town of Livingston Planning Board chairman or building permit signed by the Town of Livingston Building Inspector, applicant agrees to comply with all conditions.
- J. A violation or non performance of any of these conditions may result in a revocation of this approval by the Planning Board. Violations of any conditions are to be considered violations of the Town of Livingston Zoning Law and shall be subject to prosecution in Livingston Town Court and/or Columbia County Supreme Court. The applicant shall pay the costs of all attorney fees and litigation expenses of the town in the event of a plea or conviction in favor of the town.
- K. When applying the requirement of §4.36.18 of the Zoning Law regarding the lapse of approval if no construction within two years, the Special Use Permit and Site Plan Approval by this Board shall be deemed effective as of the date of the receipt of the last permit, license or approval necessary for the commencement of construction or the conclusion of any litigation that may serve to delay the project.
- L. Changes to the Site Plan shall require the approval of the Planning Board.
- M. The following are general conditions which shall be fulfilled throughout the construction and operation of project:

- a. The applicant shall continue to comply with all conditions imposed by any of the outside agencies in their permit.

N. The applicant agrees to allow reasonable access to project site, to the Building Code Officer or Zoning Officer or agent or representative of same at any time prior to, during and after completion in order to monitor conditions.

Chairman Schmidt roll call as follows:

John Ross            AYE  
Bernie Stickles     AYE  
Robert Bellinger   AYE  
Martin Nayowith   AYE  
Chip Keil            AYE  
Stephen Thiebault AYE

A motion to accept the Resolution as presented for Bell Atlantic was made by Bernie Stickles and 2<sup>nd</sup> by Martin Nayowith. All members present voted AYE. Motion passed.

The Public hearing for George Schmitt authorized to represent Luckless Enterprises LLC. (Figment Hudson Valley) and Joyce Collier a Special Use (Inn and Hotel) and Site Plan and Subdivision applications to be able to divide existing parcel into 2 separate parcels and the construction of six small rental units together with site parking, onsite sewerage disposal and on site potable water source. Property located 43 Cold Spring Road Zoned LDR2. Opened at 7:34.

George Schmitt gave an overview of the project.

1. 6 houses on site, water and septic.
2. Small signage.
3. Low lighting on site only porch lights.
4. Generator.
5. Health department viewing the septic.

Comments:

1. Only foot traffic to rear houses.
2. Fire Company cannot access all buildings.

3. Number 7 building will only house maintenance requirements.
4. Unknown what type of heating will be used.
5. Major subdivision. Yes
6. Need to address several items on the application.
7. Changes submitted at meeting 02 05 2020. Not time to review.
8. Letter received from Livingston Fire Company 02 05 2020 No time to review.

Continue the public hearing at the March 04 2020 meeting.

A motion to declare this application as an unlisted for SEQR and make Livingston Planning Board the Lead Agency was made by Robert Bellinger and 2<sup>nd</sup> by John Ross. All members present voted AYE. Motion passed.

There being no further business a motion to adjourn was made by Stephen Thiebault and 2<sup>nd</sup> by Chip Keil.  
All present voted AYE. Motion carried.

Next scheduled meeting will be held March 04, 2020 at 7:00 p.m.  
Meeting closed at 7:45

Respectfully submitted,

Eileen Yandik  
Secretary Livingston Planning Board.