

Town of Milton Planning Board May 12, 2010

Attendance: Chairman Leal, Frolish, Staulters, Lacey, Whittel, Woolbright, Zlotnick, alternate Scatena, zoning official Howe, attorney Pozefsky, town board liaison Blaisdell, town engineer Robinson, secretary Talmadge.

The meeting was opened with the Pledge to the Flag.

Woolbright made a motion to approve the board minutes of April 14, 2010. Lacey made a second. All members voted in favor.

Review Special Permit and Site Plan – Munter – Sodeman Rd – Cell tower lighting

Frolish disclosed he is related to the property owner and would step down from the board for this project. Scatena took the place of Frolish as acting board member.

Chris Fisher represented SBA Cell Tower indicating the following:

The tower was previously approved through Optasite and had been purchased by SBA.

At the time of town approval the statement made that no lighting would be required was a miss-statement, although not intentional.

FAA documents indicated the tower would have to be marked in their regulations.

SBA purchased the approved site and the tower is operational.

FAA lighting is needed.

SBA is seeking relief from the town approval condition of “No Lighting” on the tower.

The plan of 4/1/10 indicates a lightning rod if placed on the tower would bring the height to 157 ft – there is no lightning rod installed on this tower.

As per SBA’s FAA consultant – he has indicated that the Saratoga County airport study – shows that lighting is needed for the tower.

The light has been installed on the tower and SBA will try to keep it non-operational for the time being, until the board has had a chance to review.

There is no way to avoid a light – it is a federal requirement.

A white strobe light will be on during the day and a red light will be on at night.

Leal asked for guidance from Pozefsky – if the board denies the application – where does that leave the applicant – they have an open building permit – no certificate of compliance has been issued.

Pozefsky advised that if the FAA does in fact require the light then FAA supersedes the town law.

Fisher indicated that legal requirements for FAA pre-empt denial of the tower light.

(Insert upon correction of minutes at 6/8/10 planning board meeting) The board discussed the question of the height of the tower and unanimously indicated they would like to have the height verified.

Howe indicated SBA has not submitted an “as-built plan” to the building department in conjunction with their building permit and the town will require they verify the height.

- Fisher indicated they would verify the height.

Lacey asked for verification if the proposal is for a light and also painting.

Fischer indicated markings would not be needed because it would have a white strobe in daytime and a red light at night.

Woolbright would like to study the previous approval minutes.

Leal commented the promise of “No Lighting” was a factor in the decision making at the time the planning board granted approval of tower.

Leal explained the visual EAF would need to be updated.

- After brief discussion Fisher agreed the light would be turned on for review.

Whittel commented that residents were told there would be no light and it may make a difference to those people.

Whittel inquired if there is a different height that a light would not be required.

Fisher indicated that under new regulations tree height would need a light.

- Whittel stated he would like to see an independent evaluation done for the FAA calculations.

Discussion ensued.

- Garry Robinson will coordinate the hiring for an independent evaluation.

Staulters inquired what happens if the board does not like the lighting.

Pozefsky advised the applicant has a vested right to the structure.

Fisher indicated it is an FAA requirement.

Whittel explained there are rules and parameters in the requirements – for example – environment, intensity, colors and etc can all be evaluated.

- Public hearing was scheduled for June 9th at 7:05 PM.
- Lighting will be for two days – applicant will coordinate with the secretary.

Leal advised the public that the board will take public comments at the public hearing.

Frolish returned to the board. Scatena stepped down.

Public hearing minor subdivision at 462-464 Route 29 – Bolt

Frolish informed the board and Mr. Bolt he was a party to a lawsuit involving this property 22 years ago. He would step down if the applicant would like him to.

Mr. Bolt indicated:

He has no objections to Frolish remaining on the board for his application.

He owns 60 acres with an existing farmhouse and an accessory building that is currently being leased as the Saratoga Winery.

The Winery tenants would like to purchase the building with 2 acres of land because they have put so much money into their business.

Have drawn property lines for 2 acres with the Winery, 5 acres with the existing house, 5 acres for the vacant field and the remaining property to be vacant.

There is an existing closed landfill that was tested and no toxins were found that affect water. The water was tested by NYS DOH.

Robinson agreed that the tests show negative e-coli and chloroform – most samples were below the detection levels – iron was high and magnesium was high - most are OK and meet DOH standards. Robinson suggested that a well be tested prior to building on the property.

The long form EAF was discussed.

- Robinson suggested that Mr. Bolt, not being a professional engineer, may not have understood some of the questions and he would be willing to sit down with the applicant to help him go over them.

Leal read a letter from Randy Wiebicke who owns property on Hoffman Rd.

- Pozefsky asked for a copy of the deed to be submitted for the file.

Whittel asked for the following during discussion:

- The whole area shown on the map.
- Wetlands.
- Boundary of dump – suggest keep the dump on one parcel.

Leal inquired about the driveway – Bolt explained he would move the pathway – it is not a driveway, but is only access to the barn.

- Whittel asked for elevations – believes there are some very steep slopes not shown on the map.

Woolbright indicated the county GIS mapping includes wetlands check zone that covers most of this parcel – the state believes the ground should be mapped for wetlands – suggest it is in the board’s best interest to figure out what to do with this information.

Robinson informed the board that the applicant must ask DEC to delineate the wetlands then a surveyor picks up the marks for his survey.

Woolbright indicated the property has a 100 year flood plain and drainage is an issue.

After discussion Leal indicated the public hearing would not be opened due to the SEQR questions that need to be answered.

- Robinson suggested the two new lots should have wording added to the map that states that prior to a building permit a water test would be done.
- Frolish added he would like notes added that state no disturbance of the landfill area and the landfill should be delineated and noted on lot 4.

Robinson indicated upon review of the state closure report the data does not show a lot of hazardous things.

The public hearing would continue.

In other business there was a public comment period.

Tom Boghosian of Middle Line Road – indicated he has FAA experience with his property that is located in the RPZ – believes the cell tower has FAA recommendations only and not requirement for lighting.

Kurt Stancliff of 1155 Middle Line Road – explained the white strobe light on the tower was blinding even during the daytime.

Ray Ingles of 451 Sodeman Rd – stated the light is offensive – suggest Crown Castle Co. to do the independent analysis – have put life savings into building a home across from the tower based on the boards decision for No Lighting.

Bruce Boghosian of Jockey Street, Galway, - stated he was on the board at the time of approval and believes the tower's attorney is not correct that a light is required – the FAA does not control it – over 150 ft is a different matter – they never completed a visual EAF with the application – suggest a video for each home affected –does the tower have a valid application.

Rick Sherman of 1128 Middle Line Rd – stated the light shines directly into his home and is a visual hazard – the mistake needs to be fixed – suggest making them lower the tower to 120 ft. – the leaves are on the trees now – it will be less obtrusive now – in April it was a direct beam of light – suggest the board take into consideration the time of year – in reality the leaves are not on the trees all year.

Michele Ingles of 455 Sodeman Rd – would invite all board members to her home during the lighting test.

Tom Boghosian – it is a rural area – his family is affected as well as the neighborhood – believe they put an additional 30 ft on the tower to allow for leasing area.

Kurt Stancliff stated that John Munter Jr told him that he was actually blinded by the light while driving.

Bruce Boghosian – asked if the tower is 157 ft would they be in violation of the Special Permit approval and if it is believes the board cannot hear the project.

There were no other public comments.

The meeting was adjourned.

