

TOWN OF STILLWATER
PLANNING BOARD MEETING MINUTES
June 22, 2015 @7:00 PM
STILLWATER TOWN HALL

Present:

Chairman Robert Barshied (RB)
Vice-Chairperson, JoAnn Winchell (JW)
John Murray (JM)
Carol Marotta (CM)
Peter Buck (PB)
Randy Rathbun (RR)
Beverly Frank (BF)
Randy DeBacco (RD)

Also Present:

Daryl Cutler, Attorney for the Town (DC)
Paul Male, Town Engineer (PM)
Lindsay Zepko, Town Planner (LZ)
Sheila Silic, Secretary

Pledge:

Chairman Barshied called the meeting to order at 7:00 PM and led everyone in the Pledge to the Flag.

Review and approval of the minutes of Planning Board meetings:

Ms. Frank made a motion to approve the minutes from the April 27, 2015 meeting. Ms. Marotta seconded. The Planning Board tabled the minutes from the May 26, 2015 until the July 27th meeting.

PB2015-11, Flike Lot Line Adjustment, 1450 & 1452 Hudson Ave

Chairman Barshied recognized Mr. James Vianna, of James Vianna Surveying, representing Mr. Keith Flike. Mr. Vianna briefly recapped the project before the Board. Mr. Vianna stated that the property is 3.2 acres on the east side of Hudson Ave., and is comprised of three parcels of land. Mr. Vianna stated that the Board had commented that they would prefer the parcel closest to the road receive more acreage to make the lot more conforming. Mr. Vianna stated that the front parcel closest to the road was enlarged by 20 to 25 ft. and merges the remaining parcels to form one lot.

Chairman Barshied proceeded to open the public hearing and asked if anyone wished to comment, hearing none Chairman Barshied proceeded to close the public hearing.

Chairman Barshied asked if anyone had any concerns or questions. Mr. Male asked about two questions on the SEQRA form. Mr. Vianna stated the questions raised involved an Archeological Sensitive Area, wetlands and hazardous waste. Mr. Vianna stated the entire Hudson River Corridor is on the State Historical Preservation Site, there are wetlands because of the Hudson River and there maybe wetlands on the property but are not designated on the County maps, the property is also in the 100 year flood plain. Mr. Vianna stated the hazardous waste is due to the dredging of the Hudson River.

Chairman Barshied asked if anyone had any additional concerns or questions and hearing none he asked to move to discussion of the SEQRA.

**TOWN OF STILLWATER
PLANNING BOARD
2015 RESOLUTION NO. 20**

WHEREAS, Keith and Patricia Flike have submitted an application for a lot line adjustment regarding property located at 1450 and 1452 North Hudson Ave., more fully identified as Tax Map Number 233-1-27 and 233-1-56; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), the proposed action is an unlisted action requiring SEQRA review; and

WHEREAS, pursuant to 6 NYCRR §617.6, the Stillwater Planning Board is the lead agency for SEQRA review; and

WHEREAS, the applicant has submitted a fully completed Short Environmental Assessment Form (EAF); and

WHEREAS, the Planning Board has duly reviewed the EAF and has considered the criteria contained in 6 NYCRR §617.7(c), to determine if the proposed action will have a significant impact on the environment;

WHEREAS, the Planning Board reviewed each of the 11 factors contained in Part 2 of the EAF and determined that the proposed action will have no, or only a small, environmental impact; Now, therefore, be it

RESOLVED, that the Planning Board hereby determines that the proposed action by the applicants, Keith and Patricia Flike, for a lot line adjustment regarding property located at 1450 and 1452 North Hudson Ave., more fully identified as TaxMap Number 233-1-27 and 233-1-56, will not have a significant impact on the environment.

A motion by Member Frank, seconded by Member Murray, to adopt Resolution No. 20.

A roll call vote was taken on Resolution No. 20 as follows:

Chairman Barshied	Yes
Member Buck	Yes
Member DeBacco	Yes
Member Frank	Yes
Member Marotta	Yes
Member Rathbun	Yes
Member Murray	Yes

**TOWN OF STILLWATER
PLANNING BOARD
2015 RESOLUTION NO. 21**

WHEREAS, Keith and Patricia Flike have submitted an application for lot line adjustment regarding property located at 1450 & 1452 North Hudson Ave., more fully described as Tax Map No. 233-1-27 & 233-1-56.; and

WHEREAS, a public hearing was conducted on June 22, 2015 to consider the application, and no comments were received from the public; and

WHEREAS, the Planning Board completed a SEQRA review and has issued a negative declaration pursuant to Resolution No. 21 of 2015; and

WHEREAS, the Planning Board has duly considered the application;
Now, therefore, be it

RESOLVED, that the application of Keith & Patricia Flike, for a lot line adjustment of lands located on 1450 & 1452 North Hudson Ave., more fully identified as Tax Map Number 233-1-27 & 233-1-56, is hereby GRANTED; and be it further

RESOLVED, that the applicant must file the approved subdivision map, with all required annotations (a copy of which is annexed hereto), with Saratoga County within 62 days of its execution, or the action by this Board shall become null and void; and be it further

RESOLVED, that the Secretary is authorized and directed to transmit a copy of this Resolution to the Applicant, the Town Clerk and the Building Inspector-Code Enforcement Officer.

A motion by Member Rathbun, seconded by Member Marotta, to adopt Resolution No. 21.

A roll call vote was taken on Resolution No. 21 as follows:

Chairman Barshied	Yes
Member Buck	Yes
Member DeBacco	Yes
Member Frank	Yes
Member Marotta	Yes
Member Rathbun	Yes
Member Murray	Yes

**PB2015-12 & 13, Van Splinter Lot Line Adjustment and Minor Subdivision
NYS Route 423**

Chairman Barshied recognized Mr. and Mrs. Robert Van Splinter, who briefly recapped the project before the Board. Mrs. Van Splinter stated that they would like to do a subdivision of two acres on the corner of Jack Halloran and NYS Route 423 and do a Lot Line Adjustment that would correct an encroachment at the westerly boundary of NYS Route 423. Mrs. Van Splinter stated that per Mr. Male's suggestion the perk test will be placed on the final map. Mrs. Van Splinter stated that the correction to questions #10, #11 and #14 to the SEQRA form had been completed.

Chairman Barshied proceeded to open the public hearing and asked if anyone wished to comment, hearing none Chairman Barshied proceeded to close the public hearing.

Chairman Barshied asked Ms. Zepko if had gone to the County Planning Board. Ms. Zepko stated that it had been sent to the County and the County had replied with a no impact comment.

Chairman Barshied asked if anyone had any concerns or questions and hearing none, he asked to move to discussion of the SEQRA.

**TOWN OF STILLWATER
PLANNING BOARD
2015 RESOLUTION NO. 22**

WHEREAS, Patricia VanSplinter has submitted an application for a lot line adjustment and minor subdivision regarding property located at 134 Route 423, Mechanicville, more fully identified as Tax Map Number 219-1.60.11; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), the proposed action is an unlisted action requiring SEQRA review; and

WHEREAS, pursuant to 6 NYCRR §617.6, the Stillwater Planning Board is the lead agency for SEQRA review; and

WHEREAS, the applicant has submitted a fully completed Short Environmental Assessment Form (EAF); and

WHEREAS, the Planning Board has duly reviewed the EAF and has considered the criteria contained in 6 NYCRR §617.7(c), to determine if the proposed action will have a significant impact on the environment;

WHEREAS, the Planning Board reviewed each of the 11 factors contained in Part 2 of the EAF and determined that the proposed action will have no, or only a small, environmental impact; Now, therefore, be it

RESOLVED, that the Planning Board hereby determines that the proposed action by the applicant, Patricia VanSplinter, for a lot line adjustment and minor subdivision regarding property located at 134 Route 423, Mechanicville, more fully identified as Tax Map Number 219-1.60.11, will not have a significant impact on the environment.

A motion by Member Buck, seconded by Member Rathbun, to adopt Resolution No. 22.

A roll call vote was taken on Resolution No. 22 as follows:

Chairman Barshied	Yes
Member Buck	Yes
Member DeBacco	Yes
Member Frank	Yes
Member Marotta	Yes
Member Rathbun	Yes
Member Murray	Yes

**TOWN OF STILLWATER
PLANNING BOARD
2015 RESOLUTION NO. 23**

WHEREAS, Patricia VanSplinter has submitted an application for a lot line adjustment regarding property located at 134 Route 423, Mechanicville, more fully described as Tax Map No. 219-1.60.11.; and

WHEREAS, a public hearing was conducted on June 22, 2015 to consider the application, and no comments were received from the public; and

WHEREAS, the Planning Board completed a SEQRA review and has issued a negative declaration pursuant to Resolution No. 14 of 2015; and

WHEREAS, the Planning Board has duly considered the application;
Now, therefore, be it

RESOLVED, that the application of Patricia VanSplinter, for a lot line adjustment of lands located on 134 Route 423, Mechanicville, more fully identified as Tax Map Number 219-1.60.11, is hereby GRANTED; and be it further

RESOLVED, that the applicant must file the approved subdivision map, with all required annotations (a copy of which is annexed hereto), with Saratoga County within 62 days of its execution, or the action by this Board shall become null and void; and be it further

RESOLVED, that the Secretary is authorized and directed to transmit a copy of this Resolution to the Applicant, the Town Clerk and the Building Inspector-Code Enforcement Officer.

A motion by Member DeBacco, seconded by Member Marotta, to adopt Resolution No. 23.

A roll call vote was taken on Resolution No. 23 as follows:

Chairman Barshied	Yes
Member Buck	Yes
Member DeBacco	Yes
Member Frank	Yes
Member Marotta	Yes
Member Rathbun	Yes
Member Murray	Yes

PB2011-17&18, Cellco/Verizon Wireless Special Use Permit, Radar Road

Mr. Buck recused himself during the Cellco/Verizon review and Vice-Chairperson/Alternate Member Winchell stepped in to replace Mr. Buck for this portion of the Planning Board meeting. Chairman Barshied recognized Mr. Scott Olson of Young and Sommers Law Firm, who is representing Verizon Wireless. Mr. Olson stated that on June 16th 2015 there was additional information submitted that was requested by the Board on April 27th, 2015. Mr. Olson stated that the monopole cost analysis in comparison to a lattice tower was requested by the Board. Mr. Olson stated that a monopole would cost approximately \$45,000/\$50,000 more than that of a lattice tower due to the extra steel involved in the Monopole design. Mr. Olson stated that he submitted a letter from Armor Tower who is the builder for their towers and inquired about the height of a 195 ft. monopole. Mr. Olson stated that the letter from Armor Tower confirms that they do not recommend a monopole that high because of the flex and sway factor of the pole and the microwave casts are very specific and the path can be interrupted due to the swaying of the pole. Mr. Olson stated that after talking to the Planning Board's Attorney, Crown/Verizon agreed to table the application in order to attempt to negotiate the lease agreement in reference to the letter that was submitted to the Planning Board on May 4th, 2015 by Saratoga Endeavors. Mr. Olson stated that Crown/Verizon have made an effort to negotiate the contract but have not received a written offer as of this date from Saratoga Endeavors. Mr. Olson stated the discussions with Saratoga Endeavors and Crown was to build a stealth tower and the six month termination clause would be removed from the contract. Mr. Olson stated if the project is approved it could potentially benefit both the Town of Stillwater and Saratoga Endeavors by resulting in fewer towers if AT&T relocated on the new Verizon Tower. Fewer towers could benefit Saratoga Endeavors by improving views when they develop this property. Mr. Olson stated that there is a letter of intent from T-Mobile to co-locate on the new tower and that AT&T has expressed interest in co-locating on the new tower in the future with no specific date that has been set. There is no impact on any native species and storm water mitigation is built into the plans. They received a letter from Chris Martin stating that the tower cannot be seen from the Saratoga National Park, all the requirements from the FAA have been received, and the project meets all the Towns setbacks.

Chairman Barshied asked about the final elevation of the new tower that is being proposed. He stated that the new tower has a lower high point elevation than the existing tower and the AT&T tower is taller than the tower that is being proposed. Mr. Olson stated that Verizon is the only tenant on the Crown tower, the existing tower is 180 ft. but the elevation of the Gorsky property is 50 to 60 ft. lower so, the new tower will be 35 to 40 ft. lower. That is correct, the proposed tower is lower than the AT&T. Ms. Marotta asked about AT&T and T-Mobile in regards with being on the third tower and is there a letter of intent from AT&T to move onto the new tower. Mr. Olson stated that there are three towers on the property, the Crown tower that Verizon is located on, the second tower is AT&T's tower with no other carriers on it, and the third tower is the FAA tower. AT&T has expressed interest in the new tower, however Crown/Verizon has not received a letter of intent from AT&T. Mr. Doty stated that the Board requested an inventory of any other monopole towers that were 200 ft. in height. Mr. Olson stated that Crown provided requested information.

Chairman Barshied proceeded to open the public hearing and asked if anyone wished to provide public comment.

David Harper, Attorney for Saratoga Endeavors

Mr. Harper stated that Mr. Peter Layola will speak regarding the technical components; next Mr. William Hauf will speak regarding the affidavit that was submitted previously. Mr. Harper stated that he would give a brief summary.

Peter Layola, CLA Site, Engineer, 157 Lake Avenue

Mr. Layola presented letters to the Board from Young and Sommers Law Firm, Mr. Scott Olson and Costich Engineering. Mr. Layola stated that Mr. Hauf has been trying to get Verizon and AT&T to co-locate onto one tower on Saratoga Endeavors property. Mr. Layola stated that AT&T has never provided a letter of intent to co-locate onto the Crown/Verizon tower to his knowledge and it has been difficult to get Verizon and AT&T together at the same time. Mr. Layola stated that is very difficult to obscure a 200 ft. tower and my question is why Crown/Verizon needs to build a 195 ft. tower. Mr. Layola stated in a letter from Young and Sommer's dated June 3rd. Mr. Olson states in respect to the tower proposed for the adjoining property Verizon Wireless requires two Microwave dish antennas, one is at a height of 155 ft. and the other at a height of 125 ft. Mr. Layola states on page 2 of the Costich Engineering report that there is 65 ft. to 85 ft. tall vegetation in the vicinity of the proposed tower. Mr. Layola stated that Costich's view shed analysis is a lot different than the view shed analysis that was done by the CLA Group in 2008 for the previous Crown Communication application. Mr. Layola asked why the old lease line with an agreement with Crown Communication is still on the Site Plan application. Mr. Layola stated if 155 ft. in height is all that is required then stealth is an option for the tower.

William Hauf

Saratoga Endeavors, 2 Radar Rd

Mr. Hauf requested that the affidavit be read into the minutes, please see below. Mr. Hauf stated that Mr. Olson refuted the fact that Saratoga Endeavors had sent a letter stating that Mr. Hauf agreed to remove the six month termination clause and which Mr. Olson is in possession of this letter. Mr. Hauf stated that there is not a condition attached to this letter but, that Mr. Harper only suggested a stealth tower as an opportunity. Mr. Hauf stated that Young and Sommers and Costich were hired to go through the numbers and have indicated the height of the microwave antennas are 125 ft. and 150 ft. Mr. Hauf stated that the Chazen Companies had submitted a report to the Board stealth listing towers in the region with a height of 150 ft. Mr. Hauf stated that Saratoga Endeavors has asked Verizon for a photo of the tower and its placement and was referred to the engineering report. Mr. Hauf stated that in this engineering report it states "In order to maintain the desired antenna centerline height of 191 ft. and to ensure that a monopole tree tower looks authentic, the height of a monopole tree tower would need to be approximately 210205 ft. The additional 1510 ft. above the height of the lattice tower top of the antenna is necessary to provide a conical branching shape at the top of the tower." Mr. Hauf stated that this report has several inaccuracies and should be disregarded. Mr. Hauf stated that Saratoga Endeavors has tried to work with Crown/Verizon to enhance the community and the surrounding area for the past 7 yrs. and has asked for copies of the letters from Saratoga Endeavors refusing to work with Crown/Verizon. Mr. Hauf stated that Crown/Verizon has not provided this information to Saratoga Endeavors. Mr. Hauf stated that this application is based on the six month termination clause and that has been removed from the lease so, there must be another reason for the Board to approve this application.

Sean Doty-Engineer, The Chazen Companies

Mr. Doty asked for clarification in response to Mr. Hauf's question. Mr. Doty asked Mr. Hauf are you asking if The Chazen Companies had designed and/or built these towers. Mr. Hauf stated that he was asking about the stealth towers that were identified in the report which The Chazen Companies had submitted to the Board. Mr. Doty stated that he can only speak for this application and that Chazen Companies has identified in Crown Castle's inventory of a tower that is a 160 ft. monopole that is in Saratoga/Warren and Schoharie/Albany Counties.

ORIGINAL

Rec'd 6/22/15 @
Planning Board Meeting

State of New York
County of Saratoga

In the matter of the application of
Verizon Wireless for construction
Of a telecommunications tower

Affidavit

William J. Hauf, under the penalties of perjury, states as follows:

1. I am the owner of the old radar base at 2 Radar Road, which is presently improved with two functional telecommunications towers used by cell phone carriers.
2. I make this affidavit in response to the affidavit of Joseph Knisell, Sr., sworn to the 2d day of March 2015, and the letter of Crown Castle [Kevin Savage], dated March 16, 2015, copies of which are annexed to this affidavit, and which I understand have been submitted to the Town of Stillwater Planning Board in support of Verizon's pending application to build another cell tower on nearby property.
3. In his affidavit, Mr. Knisell alludes to an email sent to me on June 14, 2012. Mr. Knisell states in his affidavit that he never received a response from me to his email but alludes to a telephone conversation with me on October 16, 2012.
4. While I do not recall receiving the specific email in 2012, I do recall speaking with Mr. Knisell on the telephone in 2012. Mr. Knisell called me strictly

on behalf of Crown and I recall we discussed removing the six month mutual termination clause. I recall asking Mr. Knisell to have Verizon contact me so that all parties could be part of the conversation. I never heard from Verizon thereafter or from Mr. Knisell.

5. I call the Planning Board's attention to the fact that Mr. Knisell does not claim in his affidavit that he followed up with me by telephone or by email after the year 2012.

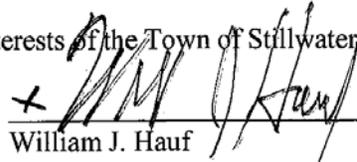
6. In Crown's letter to me dated March 16, 2015, Mr. Ken Savage states "As you are aware, Crown has made several requests to you to amend the lease to omit this [six month mutual] termination right....Insofar as you have repeatedly rejected Crown's requests, Crown entered into an agreement with Verizon Wireless to remove [the] Crown tower..."

7. I draw the Planning Board's attention to the fact that there have not been "several requests" followed by "repeated rejections". Crown's last request to me in 2012 with no follow up calls or emails and no follow up by Verizon Wireless hardly constitute "several requests" and "repeated rejections".

8. I have most recently offered to Crown and/or Verizon to remove the six month cancellation period entirely if only they would consider building an aesthetic solution which is good for all parties, including the Town of Stillwater.

9. Crown & Verizon have responded with their same conclusions that there is no possible aesthetic solution and that a standard lattice tower is mandatory.

10. In my opinion, the Planning Board would be well served to have an *independent* telecommunications consultant review the conclusions of the applicant to determine what is in the best interests of the Town of Stillwater.



William J. Hauf

Sworn to before me this
22d day of June, 2015



Notary Public

DAVID A. HARPER
Notary Public, Reg. No. 4730928
State of New York, Saratoga County
My Commission Expires Aug. 31, 2012

David Harper-Attorney for Saratoga Endeavors

Mr. Harper presented the Board with copies of a surveyor's certificate that was filed back in 2008 by Mr. David Wheeler, Land Surveyor. Mr. Harper stated that this certificate certifies the AT&T tower at 155 ft. and the Crown tower at 185 ft. tower height above ground as what currently exists on Mr. Hauf's property. Mr. Harper stated that he has inquired about locating a local Tele-Communication Consultant to review the information that he has been presented the Board. Mr. Harper stated that he has not been able to find a Tele-Communication Consultant that is local. Mr. Harper stated that there are a number of Tele-Communication Consultants located in Syracuse but was informed by them that this would be a conflict of interest to take on an assignment that would be adverse to Crown and Verizon. Mr. Harper stated that he contacted the City of Saratoga Springs and inquired who they use as their Tele-Communication Consultant. Mr. Harper stated that the City of Saratoga Springs referred him to Mark Hoppy. Mr. Harper stated that Mr. Hoppy is from out of state and has done a lot of work with the ADA. Mr. Harper stated that his office contacted Mr. Hoppy but, have not received a response back as of this date. Mr. Harper suggested that the Town would be well served if a mutual third party Tele-Communication Consultant reviewed the information that the Board has received. Mr. Harper reviewed the Town Ordinance regarding cell towers and does not believe the applicant has met the burden that is stated in the ordinance.

Mr. Murray stated for the record that he is not related to Ms. Jacquelyn Philips Murray or any member of the Murray Law Firm. Mr. Murray asked about the letter dated June 5th from Ms. Murray and if Mr. Harper or Mr. Hauf has responded to this letter. Mr. Harper stated that there have been a number of phone calls and email correspondences between Ms. Murray and myself. Mr. Harper stated that the correspondence has been about the standard lease that would be 20 years comprised of four five year terms. Mr. Harper stated that the standard lease would give the landlord no power to cancel the lease and suggested different types of stealth towers and is consistently told by Crown/Verizon that this is not an option. Mr. Harper stated that he could not confirm or refute this information and that you need an independent Tele-Communication Consultant to answer this question.

Mr. Cutler stated that his interpretation is that Crown is asking for confirmation that Saratoga Endeavors is willing to remove the six month termination without conditions. Mr. Harper stated that Saratoga Endeavors has agreed to remove the termination from both parties leases and that both parties would then be locked into the contract until 2026. Mr. Cutler stated that he was asking if Crown/Verizon had received confirmation from either Mr. Hauf or Mr. Harper that this is adequate. Mr. Hauf stated that the word consideration was used; it was not made a condition.

Chairman Barshied asked about the May 4th letter that was sent to the Planning Board that appears to present an option to Crown/Verizon with a contractual change but does not show Crown/Verizon as a recipient of receiving a copy of this letter. Mr. Hauf stated that he was unaware that Crown/Verizon was not sent a copy of the letter and it was his understanding that a copy of letter had been sent to Crown/ Verizon. Mr. Harper stated that it was his responsibility to send a copy of the letter to Crown/Verizon. Mr. Harper stated that Crown/Verizon already had a copy of the letter and did not directly send a copy to them. Chairman Barshied asked about the statement in the June 3rd letter referencing the 125 ft. and 155 ft. to help the Board understand the requirements. Mr. Olson stated that the two microwave antennas are to be at these heights and there are twelve panel antennas that have to be at the antenna satellite height of 191 ft. Mr.

Olson stated that microwave antennas do not provide signals for cell phone calls and are only there to communicate with twenty-six other sites. Chairman Barshied asked why are the antennas required to be at this height. Mr. Olson stated that the microwave dishes operate at a height of neighboring microwave line of site. Mr. Olson stated that information from the RF analysis with the panel antennas are two totally independent components. Chairman Barshied asked if it is typical on Crown/Verizon towers that the microwave dishes are substantially at a lower elevation than the cell antennas. Mr. Olson stated that it is dependent on network.

Rick Anderson-Architect Engineer for Verizon Wireless

Mr. Anderson stated the microwave dishes are significantly higher than the trees at 150 ft. as it links a direct path to other microwave dishes. Mr. Anderson stated that the new tower is 15 ft. lower in elevation and the new tower has to be able to have a 360 degree path and the site serving antennas gives umbrella type coverage. Mr. Anderson stated that co-location is all about the vertical space on the tower and the needs of those carriers.

Ms. Marotta asked about the need for the tower to be at the 195ft elevation. Mr. Murray stated that if the tower is over 200 ft. it would then need to have a beacon light on top. Ms. Marotta stated that the new tower is designed to duplicate the technical aspect of the existing tower. Mr. Anderson stated that was correct.

Ms. Frank asked about the height of the existing tower at 185 ft. the proposed tower at 195 ft. and what prevents Crown/Verizon from building a 195 ft. tower at the current location to accommodate the coverage that is required. Mr. Olson stated that Crown/Verizon has unsuccessfully tried to negotiate the removal of the six month termination clause.

Jacquelyn Phillips Murray-Murray Law Firm

Ms. Murray stated that she would like to correct an inaccurate statement. Ms. Murray stated that Crown has not received a letter from Saratoga Endeavors and has solicited for a copy of the letter on May 4th and again on May 14th. Ms. Murray stated that Crown still has not received a written offer from the Saratoga Endeavors.

Chairman Barshied asked if anyone had any additional concerns or questions and hearing none, he asked to move to discussion of SEQRA.

**TOWN OF STILLWATER
PLANNING BOARD
2015 RESOLUTION NO. 25**

WHEREAS, Cellco Partnership, d/b/a Verizon Wireless has submitted an application for Special Use Permit and Site Plan Approval regarding property located at Radar Road, more fully identified as Tax Map Number 207.-1-13.1; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), the proposed action is an unlisted action requiring SEQRA review; and

WHEREAS, pursuant to 6 NYCRR §617.6, the Stillwater Planning Board is the lead agency for SEQRA review; and

WHEREAS, the applicant has submitted a fully completed Short Environmental Assessment Form (EAF); and

WHEREAS, the Planning Board has duly reviewed the EAF and has considered the criteria contained in 6 NYCRR §617.7(c), to determine if the proposed action will have a significant impact on the environment;

WHEREAS, the Planning Board reviewed each of the 11 factors contained in Part 2 of the EAF and determined that the proposed action will have no, or only a small, environmental impact;

Now, therefore, be it

RESOLVED, that the Planning Board hereby determines that the proposed action by the applicant, Cellco Partnership, d/b/a Verizon Wireless, for a Special Use Permit and Site Plan Approval regarding property located at Radar Road, more fully identified as Tax Map Number 207.-1-13.1, will not have a significant impact on the environment.

A motion by Member Rathbun, seconded by Member Murray, to adopt Resolution No. 25.

A roll call vote was taken on Resolution No. 25 as follows:

Chairman Barshied	Yes
Member Buck	Abstained
Member DeBacco	Yes
Member Frank	Yes
Member Marotta	Yes
Member Rathbun	Yes
Member Murray	Yes
Alternate Member Winchell	Yes

**TOWN OF STILLWATER
PLANNING BOARD
2015 RESOLUTION NO. 26**

WHEREAS, Cellco Partnership, d/b/a Verizon Wireless, is seeking a Permanent Special Use Permit for a new cell tower site located at Radar Road on property known as SBL: 207.-1-13.1; and

WHEREAS, the applicant currently has a wireless antennae and equipment on a cell tower that is located on land owned by Saratoga Endeavors, LLC. The cell tower itself is owned by Crown Castle Atlantic Company, LLC. At the cell tower site there are a total of three cell towers. The applicant wants to build a tower on an adjacent property and have the existing tower removed. This would result in no net gain of cell towers, but, rather, the relocation of one of the existing three towers.

The applicant reports that under the current lease to use the existing cell tower, there is a clause that allows the contract to be terminated upon six months' notice. The applicant, the tower owner, and the property owner all have acknowledged that six months' notice is insufficient time to obtain the necessary approvals and build a new tower at another suitable location; and

WHEREAS, a Public Hearing was held, and comments were made, regarding the fact that the applicant currently has use of an existing tower on Radar Road that adequately meets the needs for the wireless coverage and that residents would be opposed to an additional tower. Public comments were made regarding the lack of certainty of being able to have the existing tower used by the applicant torn down, should the applicant construct the proposed new tower at the adjacent property. Saratoga Endeavors advised that should the Verizon antennae be removed from the existing tower, the existing tower's owner, Crown, would actively seek to have another provider use the existing tower. This would prevent the Town from forcing the demolition of the existing tower. As such, there would then be a total of 4 towers instead of the 3 existing towers; and

WHEREAS, Saratoga Endeavors pointed out that Verizon Wireless has been using the existing tower under the terms of the existing lease for many years and nothing has changed; and

WHEREAS, Saratoga Endeavors further stated that no one had made any attempt to renegotiate the early termination clause of the long term lease that provides that either party can terminate the lease with 6 months notice. In the event the applicant felt 6 months was insufficient time to relocate, should the lease be terminated by either Saratoga Endeavors or the tower owner, the 6 month term could be amended to provide additional time to relocate, but no attempts have been made to negotiate that proposed change; and

WHEREAS, Saratoga Endeavors sent a letter to the Planning Board advising them that Saratoga Endeavors intends to unilaterally eliminate the termination clause within the lease agreement. If that provision is removed, than the necessity to relocate the cell tower is eliminated; and

WHEREAS, the applicant addressed the public comments, provided balloon tests and presented information to show that the visual impact of the new tower would be approximately equivalent to the visual impact of the existing cell tower. The applicant presented verbal and written assurances from Crown, the owner of the existing tower, that when the new tower is installed and the Verizon equipment is running, the existing tower would be removed within the six month time

requirement under the Stillwater Town Code. In doing so, the applicant addressed the concern that the project would result in an additional cell tower; and

WHEREAS, the applicant stated that all attempts to have Saratoga Endeavors provide written confirmation that the termination clause has been eliminated from the contract have not been successful. Instead, Saratoga Endeavors has attempted to negotiate a new lease with a new tower design. The applicant argues that Saratoga Endeavors' refusal to provide written confirmation that the six month termination clause is eliminated from the lease leaves the applicant with no written confirmation from the land owner of a change to the contract; and

WHEREAS, the Planning Board acknowledges the impact of the six month termination clause in the contract creates difficulty for the applicant and the strong potential for disruption in cell phone service for a period of time. The applicant advised the Board that since originally entering into the contract with a six month termination clause, the cell phone tower has now become a hub of vital importance and that disruption of service would have a substantial impact on the surrounding community. It is unclear whether the six month termination clause is still an issue as the land owner, Saratoga Endeavors, sent the letter to the Planning Board, but has not provided the applicant or Crown with written verification that that provision of the contract has been eliminated; and

WHEREAS, much of the attention for this application has been focused on the six month termination clause. However, once the applicant established that there would be no net gain in the number of cell towers, the six month termination clause is no longer the issue. The elimination of the termination clause does not foreclose the applicant from seeking to move the tower to another site. Even if the six month termination clause were removed, given the fact that there is no net gain and this is just a relocation of the cell tower, the applicant would have the right, under the Code, to make this application and to seek for that approval. Although the local zoning code states that a new tower will not be approved if an applicant could co-locate on an existing tower, the intent and purpose of that provision was to prevent additional and unnecessary towers from being constructed. That portion of the local law was not intended to prohibit this type of scenario. If that portion of the local law were interpreted that narrowly, it would prohibit the relocation of a tower to a more effective location, and would prohibit replacing an existing tower with a stealth tower; Now, therefore, be it

RESOLVED, that the application of Cellco Partnerships, d/b/a Verizon Wireless, for a permanent special use permit for a new cell tower located on Radar Road on property known as SBL:207.-1-13.1 is hereby granted under the following conditions:

1. That the existing tower be removed within 60 days after the new cell tower is constructed and the applicant's equipment has been relocated.
 2. That the applicant post a letter of credit, in the amount determined by the engineer for the Town, to ensure that the existing cell tower is taken down.
 3. In the event the existing tower is not removed in a timely fashion, the Special Use Permit and Site Plan Approval for the new cell tower shall terminate and the new cell tower shall be removed at the Applicant's expense and that the applicant post a letter of credit, in the amount determined by the engineer for the Town, to ensure that this condition is complied with by the applicant.
- For the above stated reasons, upon motion of Member Murray, seconded by Member Marotta, the applicant for a special use permit is granted.

A roll call vote was taken on Resolution No. 26 as follows:

Chairman Barshied
Member Buck

Yes
Abstained

Member DeBacco	Yes
Member Frank	Yes
Member Marotta	Yes
Member Rathbun	Yes
Member Murray	Yes
Alternate Member Winchell	Yes

Chairman Barshied asked if anyone had any additional concerns or questions on the Site Plan. Ms. Marotta asked about the fencing, if there are cameras around the site for security, parking area and what type of screening would be used so, it is not as noticeable to the neighbors. Mr. Olson stated that the entire area will be fenced with an entrance gate that will be locked, there are no cameras at the site, parking will be outside the fenced area and there will be one vehicle at the site every one to three months and there are existing trees for natural screening. Ms. Frank asked about the height and type of fence that will be used. Mr. Olson stated that it is chain link fence that will be 6 ft. to 7 ft. high with barbed wire at the top of the fence for security.

**TOWN OF STILLWATER
PLANNING BOARD
2015 RESOLUTION NO. 27**

WHEREAS, Cellco Partnership, d/b/a Verizon Wireless, has submitted an application for a Site Plan Review regarding property located at Radar Road, more fully described as Tax Map No. 207.1-13.1; and

WHEREAS, a public hearing was conducted on June 22, 2015, to consider the application, and no comments were received from the public; and

WHEREAS, the Planning Board completed a SEQRA review and has issued a negative declaration pursuant to Resolution No. 27 of 2015; and

WHEREAS, the Planning Board has duly considered the application;
Now, therefore, be it

RESOLVED, that the application of Cellco Partnerships, d/b/a Verizon Wireless, for a site plan review for a new cell tower located on Radar Road on property known as SBL:207.-1-13.1 is hereby granted under the following conditions:

1. That the existing tower be removed within 60 days after the new cell tower is constructed and the applicant's equipment has been relocated.
2. That the applicant post a letter of credit, in the amount determined by the engineer for the Town, to ensure that the existing cell tower is taken down.
3. In the event the existing tower is not removed in a timely fashion, the Special Use Permit and Site Plan Approval for the new cell tower shall terminate and the new cell tower shall be removed at the Applicant's expense and that the applicant post a letter of credit, in the amount determined by the engineer for the Town, to ensure that this condition is complied with by the applicant.

For the above stated reasons, upon motion of Member Murray, seconded by Member DeBacco, the applicant for a site plan review is granted.

A roll call vote was taken on Resolution No. 27 as follows:

Chairman Barshied	Yes
Member Buck	Abstained
Member DeBacco	Yes
Member Frank	Yes
Member Marotta	Yes
Member Rathbun	Yes
Member Murray	Yes
Alternate Member Winchell	Yes

Chairman Barshied recognized that Member Buck had returned to the podium for the remainder of the Planning Board meeting.

PB2014-48, Brickyard Road Apartments Site Plan, Brickyard Rd

Chairman Barshied recognized Luigi Palleschi, of ABD Engineering and Land Surveying, on behalf of Tom Andress and will be representing Mr. John Bove. Mr. Palleschi stated that all the conditions have been met. Mr. Palleschi stated that they received a comment letter from Mr. Male dated June 16, 2015. Mr. Palleschi stated that Mr. Andress and himself went through all the comments in the letter and had a conference call with Mr. Male and Ms. Zepko.

Mr. Murray asked about comment #43 of Mr. Male's comment letter dated June 16, 2015 regarding the Geotechnical Report and asked if this report had been presented to the Planning Department for their review. Mr. Palleschi stated that the Geotechnical report is in draft form and is in contact with Dente Engineering to provide a finalized stamped copy of the report. Mr. Palleschi stated that the Geotechnical report was the first portion of the project to be completed in order to do the foundation work. Mr. Murray stated that comment #40 also has to be addressed.

Chairman Barshied asked Mr. Male if he had any comments regarding the Geotechnical report. Mr. Male stated that the Planning Department has been continually requesting the report. Chairman Barshied stated that for clarification this application is for Phase 1, 2 and 3. Chairman Barshied stated that Phase 1 is for 24 units, Phase 2 is for 16 units and Phase 3 is for 24 units in the future. Mr. Palleschi stated that they would have to come back before the Board for Phase 3. Chairman Barshied asked Ms. Zepko if she has received a response from the County Planning Board. Ms. Zepko stated she has not received a response back as of yet. Mr. Cutler asked Ms. Zepko if the County Planning Board is also waiting on the Geotechnical report. Ms. Zepko stated the County Planning Board had mentioned that in an earlier response.

Chairman Barshied stated that the Board cannot make any decisions or act on this application without the response from the County Planning Board.

Chairman Barshied asked if anyone had any additional concerns or questions. Mr. Murray made a motion to hold the public hearing with the condition that the Geotechnical report is received by the Planning Department no later than Wednesday July 8, 2015 for review. Chairman Barshied stated that the public hearing was set for the next Planning Board meeting on July 27, 2015.

PB2015-8, Plesencia Minor Subdivision, 86 Kellogg Road

Chairman Barshied recognized Mr. Scott Ronda, of Beebe Law Firm, who is representing Mr. And Mrs. Gary Plasencia. Mr. Ronda stated that Mr. Plesencia's son is present this evening. Mr. Ronda briefly presented the proposal before the Board. Mr. Ronda stated that Mr. Plesencia would like to build a single family dwelling on proposed Lot #2. Mr. Ronda stated that the two parcels total 7.3 acres and would be subdividing the larger lot that is 6 acre. Mr. Ronda stated that the .50 acre lot would be merged with the new building lot. Mr. Ronda stated that both of lots meet all the of setback requirement, the minimum lot size and Lot #1 will have both water and sewer.

Ms. Marotta asked if the smaller lot that had the house will become part of Lot #2. Mr. Ronda stated that is correct and that the 1.58 acre lot is part of Lot #2 but has a separate tax identification number.

Chairman Barshied stated that the 1.58 acre parcel is land locked. Mr. Ronda stated that the parcel isn't land locked as it is part of Lot #2 but that the tax identification number is land locked.

Mr. Rathbun asked about the stream and if the boundary line is the side banks or the center line of the stream. Mr. Ronda stated that he was not certain where the boundary line was exactly. Mr. Ronda referred to Mr. Plesencia who stated that when his father bought the property there was an understanding that his father would own a 5 ft. section on one side of the stream and the adjacent property owner would own the other 5 ft. section.

Mr. Male stated that most of the stream appears to be owned by the adjacent property owner and that he note on the map stated the southerly-westerly line of the stream and westerly bank.

Chairman Barshied asked Mr. Male if he had any other concerns pertaining to this application. Mr. Male stated that the only concern he has is the installation of a septic system with the amount of water that is lying atop the ground. Mr. Ronda stated that the water is due to the installation of the new fire hydrants and the Highway Department had not finished digging the ditches. Mr. Ronda stated that the Highway Department has finished the ditches and the water is now draining from the property. Mr. Ronda stated that he has received a response from Saratoga County Sewer District #1 and that they will be installing a pressure system.

Chairman Barshied asked if anyone had any additional concerns or questions and hearing none, he stated that the public hearing was set for the next Planning Board meeting on July 27, 2015.

Motion to adjourn: Made by Ms. Marotta, seconded by Ms. Frank, motion passed unanimously at approximately 9:00 p.m.

**The next Planning Board Meeting will be
Monday, July 27, 2015**