



**THE TOWN OF PEMBROKE
PLANNING BOARD**
1145 Main Rd., Pembroke, NY 14036
Minutes for the regular meeting held on April 29, 2015

ATTENDANCE:

- Chairman-Thomas Schneider
 - Linda Rindell
 - Mike Bakos
 - Richard Kutter
 - David Knupfer-Vice Chairman
 - Marie Vaughn
 - Greg Kuras
- Diane Denton-Acting Recording Secretary

PUBLIC PRESENT: Yes

MEETING called to order at 7:30pm.
Chairman Schneider led the “Pledge of Allegiance”.

A MOTION TO APPROVE the Minutes from the March 25, 2014 Planning Board Meeting was made by Ms. Rindell; second to motion was made by Mr. Kuras.

Voice Vote: ALL AYES—MOTION CARRIED.

**Public Hearing:
Site Plan Review & Special Use Permit**

SBA Towers, VI, LLC
300 Main Rd., Town of Pembroke
Tax Maps #18.-1-8.1
Zoning District: AG/RES
Required referral to Genesee County

PUBLIC HEARING opened at 7:31pm. The Notice of Public Hearing appeared in the Batavia Daily News on April 2015, an Affidavit of Posting was posted on the Town’s bulletin Board and letters were sent to neighboring properties.

- Attorney Matthew Kerwin from Hiscock & Barclay was present with engineer Adam Price to represent SBA Towers in the company’s request to construct a monopole tower communications facility at 300 Main Rd., TM# 18.-1-8.1, to be used by Verizon Wireless.
- The Planning Board had a preliminary discussion about this application at the regular March meeting.

- Mr. Kerwin handed out revised plans for the proposal, updated because of a change regarding using the existing access road, which runs to an existing gas well, rather than make a new one, extending it slightly in order to keep access on the same property and avoid the need for easements.
- SBA Towers would construct and own the 164 ft. tower. It would be ½ mile off the main road and enclosed by a 75 ft. x 75 ft. fence compound that would also contain a Verizon equipment shelter approximately 12 ft. in height. At a lower height, Verizon would like to install a microwave dish.
- Mr. Kerwin explained and showed a map of the current Verizon coverage to the east and west of the proposed new tower, and another to show how the tower would correct a gap in coverage and the capacity issues that now exist, which results in the current coverage being overloaded with users, therefore causing weak signals.
- Mr. Kerwin explained and showed photographs taken from different angles with balloons positioned where the tower would be, demonstrating that it would be barely visible—often not at all when the trees are in full leaf.
- Chairman Schneider had a call from Mike Lewis, neighbor to the east of the proposed tower, who was concerned about the proposal. Tom asked Mr. Kerwin if he could send him a copy of the information presented. Mr. Kerwin said that would be fine as it is for public record.
- One member of the public wondered if the tower would interfere with aviation communications related to the Akron airfield. Mr. Kerwin assured her that they are required to comply with FCC regulations; that every carrier operates at different frequencies. She also had a concern that another tower would adversely affect farming, livestock or geese or other wild life, especially considering the Alabama swamps are nearby.
- Mr. Kutter wondered if the tower would be lighted as the other towers were. Mr. Kerwin said SBA did not have plans to do so, but if the Planning Board wished to make it a requirement of approval, SBA would comply.
- Mr. Kuras expressed a concern for the wetlands on the property. Mr. Kerwin said that a wetlands inspector had come out and decided that there wouldn't be any permanent impact on the wetlands. SBA plans to install culverts along the road.
- There was a question about whether the tower would support other carriers. Chairman Schneider said it is a town requirement that a tower fits multiple antennas.
- Mr. Kutter mentioned that although SBA is claiming a gap in coverage, people are still using their cell phones. Other board members did say they experienced weak signals and dropped calls.

PUBLIC PARTICIPATION—Yes

On **MOTION** made by Mr. Kutter, and seconded by Ms. Rindell, the Public Hearing was CLOSED at 8:00pm.

Voice Vote: ALL AYES—MOTION CARRIED.

- County recommended approval with modifications stating that the proposed telecommunications tower should pose no significant county-wide or inter-community impact and recommending that the applicant submit the application for 911 address verification to the Genesee County Sheriff's Office to ensure an address is assigned that meets Enhanced 911 standards.

On **MOTION** made by Mr. Kutter and seconded by Mr. Bakos to make a **negative Declaration on the SEQR short form.**

ROLL CALL VOTE Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Kuras-Aye; Ms. Vaughn-Aye; Mr. Schneider-Aye. (Mr. Knupfer didn't vote, as he arrived late)
ALL AYES-MOTION CARRIED

On **MOTION** made by Chairman Schneider and seconded by Ms. Rindell to **APPROVE the Site Plan and Special Use Permit for the installation of the SBA telecommunication Tower with the following Restrictions:**

- 1) **County's modifications are met.**
- 2) **Tower will be lighted in accordance with FCC requirements.**
- 3) **Wetlands are impacted as little as possible in accordance with the requirements of the Army Corps of Engineers.**

ROLL CALL VOTE Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Kuras-Aye; Ms. Vaughn-Aye; Mr. Schneider-Aye. (Mr. Knupfer didn't vote, as he arrived late)
ALL AYES-MOTION CARRIED

Land Separation

C&F Brothers

8482 Slusser Rd., Town of Pembroke

Tax Maps #17-2-32 & 17.-2-31.2

Zoning District: AG/RES

- Applicant is requesting a separation of approximately 1.045 acres from TM# 127.-2-31.2 to merge with TM# 17.-2-32.
- There is the possibility that a separation was made (dotted line on map) in the past, but was never filed/completed. There is nothing in the deed.
- The frontage of the new parcel would be 345 ft.

On **MOTION** made by Mr. Kutter and seconded by Mr. Knupfer to make a **negative declaration on the SEQR short form.**

ROLL CALL VOTE Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Kuras-Aye; Ms. Vaughn-Aye; Mr. Knupfer-Aye; Mr. Schneider-Aye.
ALL AYES-MOTION CARRIED

On **MOTION** made by Chairman Schneider and seconded by Mr. Kutter to **APPROVE the Land Separation as presented.**

ROLL CALL VOTE Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Kuras-Aye; Ms. Vaughn-Aye; Mr. Knupfer-Aye; Mr. Schneider-Aye.
ALL AYES-MOTION CARRIED

Land Separation

David Cummings

9178 Allegheny Rd., Town of Pembroke

Tax Maps # 23.-1-50.1

Zoning District: AG/RES

- Applicant is requesting a division of TM# 23.-50.1, so the house on one square acre is separated from the rest of the property in order for it to be sold through auction.
- Driveway to go with remainder of property. This has been discussed with Steve Stocking.
- No map with dimensions was presented. Ms. Cummings went home to get it.
- The board suggested that the Cummings get the property re-surveyed in order to keep 200 ft. of frontage and avoid the need for a variance. The Cummings agreed to do so.

On **MOTION** made by Mr. Kutter and seconded by Ms. Rindell to make a **negative declaration on the SEQR short form.**

ROLL CALL VOTE Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Kuras-Aye; Ms. Vaughn-Aye; Mr. Knupfer-Aye; Mr. Schneider-Aye.

ALL AYES-MOTION CARRIED

On **MOTION** made by Chairman Schneider and seconded by Ms. Rindell to **APPROVE the Land Separation with the stipulation that it is re-surveyed to keep 200 ft. frontage and have a minimum 25 ft. setback from the garage.**

ROLL CALL VOTE Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Kuras-Aye; Ms. Vaughn-Aye; Mr. Knupfer-Aye; Mr. Schneider-Aye.

ALL AYES-MOTION CARRIED

Land Separation

Terry Yaw

1171 Sliker Rd., Town of Pembroke

Tax Maps # 9.-1-41

Zoning District: AG/RES

- Applicant wishes to divide TM# 9.-1-41 into three parcels to create one with house and barn, and two others to be sold as building lots.
- The two building lots would have 200 ft. of frontage each, the lot with the house and barn would have 319 ft. frontage, so all would be in compliance.

On **MOTION** made by Mr. Bakos and seconded by Ms. Rindell to make a **negative declaration on the SEQR short form.**

ROLL CALL VOTE Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Kuras-Aye; Ms. Vaughn-Aye; Mr. Knupfer-Aye; Mr. Schneider-Aye.

ALL AYES-MOTION CARRIED

On **MOTION** made by Chairman Schneider and seconded by Ms. Rindell to **APPROVE the Land Separation as shown, pending a survey for Chairman Schneider to sign.**

ROLL CALL VOTE Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Kuras-Aye; Ms. Vaughn-Aye; Mr. Knupfer-Aye; Mr. Schneider-Aye.
ALL AYES-MOTION CARRIED

Land Separation and Merger

William Privett

8874 Lovers Lane Rd., Town of Pembroke

Tax Maps # 19.-1-55

Zoning District: AG/RES

- Applicant wishes to separate approximately 2 acres off TM# 19.-1-55 to merge with TM# 19.-1-58, which is owned by Steven Fink.
- The board wants the merger with TM# 19.-1-58 to take place in order to change the parcel from non-conforming to conforming compliance.

On **MOTION** made by Mr. Bakos and seconded by Ms. Rindell to make a **negative declaration on the SEQR short form.**

ROLL CALL VOTE Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Kuras-Aye; Ms. Vaughn-Aye; Mr. Knupfer-Aye; Mr. Schneider-Aye.
ALL AYES-MOTION CARRIED

On **MOTION** made by Chairman Schneider and seconded by Ms. Rindell to **APPROVE the Land Separation and merger as discussed.**

ROLL CALL VOTE Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Kuras-Aye; Ms. Vaughn-Aye; Mr. Knupfer-Aye; Mr. Schneider-Aye.
ALL AYES-MOTION CARRIED

Discussion: David Brumsted: A couple of years ago he bought property, TM# 20.-1-62, off of Main Rd. across from Cleveland Road at public auction. Before he bought the property he made an agreement that he could use the easement (created in the late 1700's), which comes off Main Rd./Rt. 5 and goes to the power lines, with Duane Schmiegel who owns it. Therefore, Mr. Brumsted claims that, although the parcel doesn't have any frontage on Main Rd., it is not landlocked, he has had that claim certified by a surveyor, and has a legal right to use the easement/driveway. When his application for a DOT permit was rejected by Batavia, he wrote to the DOT Albany who overrode Batavia's decision and gave him the right to put in the driveway. In December he tried to get a building permit to put a hunting cabin with no utilities on the property, but Charlie Reid told he couldn't do so because the property was landlocked. In January, March, and April he tried again, and continued to be told he couldn't get a building permit, not even for any type of storage building. He attended the Town Board workshop last week and was told to contact ZBA Chairman

Nate Witkowski. Mr. Brumsted said he left a number of messages, but hasn't heard back. Chairman Schneider read from the Zoning Law pertaining to a non-dwelling structure: zero frontage can be granted as long as access road is suitable under the fire and building code. Chairman Schneider said that it would be best for Mr. Brumsted to go before the Zoning Board of Appeals for an interpretation on whether or not it is a building lot and a variance could be granted. It will be put on the ZBA agenda for the May meeting. It was suggested that he bring counsel with him. There was discussion on whether or not it an interpretation would require a Public Hearing or should go to County.

Old Business: J&R Specialties, who are looking to build a new facility in the Buffalo East Tech Park, have a for sale sign on their present building. Chairman Schneider has a call into the GGLDC to see what is going on with their application.

New Business: Chairman Schneider had some information on the Genesee County Regional Training in Mount Morris.

A MOTION to adjourn the meeting was made by Mr. Bakos, and seconded by Ms. Rindell.

ALL AYES—MOTION CARRIED

Meeting Closed at 9:17pm.

Respectfully Submitted,
Diane M. Denton,
Acting Recording Secretary
Thomas Schneider Chairman

These minutes were approved by the Town of Pembroke Planning Board May 27, 2015