

PLANNING BOARD

John Currie, *Chairman*
Vicky Gannon
Nancy Gerbino
Dennis McNamara
Bruce A. Prince
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Town of Somers

WESTCHESTER COUNTY, N.Y.



SOMERS PLANNING BOARD MINUTES REMOTE MEETING HELD VIA ZOOM

January 13, 2021 7:30 PM

ROLL:

PLANNING BOARD

MEMBERS PRESENT:

Chairman John Currie, Vicky Gannon, Nancy Gerbino, Dennis McNamara, Chris Zaberto, Jack Mattes, Bruce Prince

ALSO PRESENT:

Director of Planning, Syrette Dym, Consulting Town Engineer Joseph Barbagallo, Planning Board Town Attorney, Joseph Eriole, Esq.

The remote meeting commenced at 7:30 p.m.

Chairman Currie asked everyone to say the Pledge of Allegiance.

Director of Planning, Syrette Dym called the roll and noted that the required quorum of four members were present in order to conduct the business of the Board.

APPROVAL OF DRAFT MINUTES:

Chairman Currie asked if there were any changes, concerns, comments or corrections from the Board on the draft minutes of the November 18, 2020 meeting.

On a motion by Chairman Currie, seconded by Ms. Gannon, and unanimously carried, the Board moved to approve the November 18th, 2020 minutes, as presented.

TIME EXTENSION:**GRANITE POINE RE-GRANT: TM: 27.05-1-2&5**

Chairman Currie stated that this is a request for the 14th -90 day time extension.

On motion by Chairman Currie, seconded by Mr. Zaberto and unanimously carried, the Board moved to approve the 14th 90 day time extension for the Granite Point Subdivision Re-Grant of Final Subdivision Approval, Wetland, Steep Slopes, Tree Preservation and Stormwater Management and Erosion and Sediment Control Permits, as per Resolution 2017-10, from October 27, 2020 up to and including April 26, 2021, as per Town Law Section 276 (7) (c) and Town Code Section 50-13M. The Property is located on the east side of Route 118/202, adjacent to the Amawalk Reservoir and is located in an R-40 Zoning District for the development of 23 lots in a Cluster Subdivision.

Consulting Town Engineer Barbagallo advised that he was on a conference call with a consultant from New York State Department of Environmental Conservation (DEC), as well as Steve Woelfle, of the Town of Somers Engineering Department, and they were informed that the DEC is initiating work relative to the cleanup on Granite Pointe and they will be doing some additional sampling, for delineation purpose. As part of that work there will also be some minor tree trimming in order to create access for their piece of equipment to go in there and move around in the tree brush. Most of the tree trimming will be limbs of trees and down trees that are located through the property so they can move their rig around to do their sampling. However, it seems that the DEC is now initiating the next steps associated with the cleanup of that property.

Ms. Gerbino asked Consulting Town Engineer Barbagallo if that required additional sampling.

Consulting Town Engineer Barbagallo responded that there's additional sampling to further delineate, which is part of their normal process to refine the delineation prior to excavation.

Mr. Prince asked Consulting Town Engineer Barbagallo if the Board had any understanding of the exact status of what's going on and is this still a problem of Article 78 or has that been decided?

Both Ms. Gerbino and Chairman Currie replied that has long been decided.

Consulting Town Engineer Barbagallo stated that the Planning Board's actions for that subdivision, it was Article 78, and we survived that challenge; now it's really in the cleanup stage. You may remember that they were in the Brownfields Program and then there were complications, some of which were connected to a lawsuit that delayed the project, along with some violations that they needed to clean up with the Department of Environmental Protection (DEP), they lost their Brownfield status so that puts it on the list for the DEC to come in and initiate the cleanup in a similar way that they did on the off-site properties for the DEP and that activity is now starting. Consulting Town Engineer Barbagallo further stated that he just wanted to make that clear for the public – that any activity that is seen on that site is going to be

associated with the further delineation in preparation for cleanup; it's not the cleanup itself; we already had an inquiry into tree trimming in that location. He stated that he just wanted to inform the Board in the event some of those questions come to them; he wanted them to be aware of that.

PUBLIC HEARING:

NY AMERICAN WATER COMPANY DYKEER SITE WETLAND AND WATERCOURSE PROTECTION PERMIT FOR PROPERTY ON KRYSTAL DRIVE: TM: 16.16-2-20-24; 16.16-3-13-20 (Opened October 14, 2020, adjourned).

Chairman Currie asked if there was a representative present for the Applicant.

Michael Shortell with WSP, on behalf of American Water, introduced himself.

Chairman Currie asked for Mr. Shortell to give the Board an overview of the status.

Mr. Shortell stated that they recently received the Negative Declaration documentation. He further stated that he recently received a comment letter from Woodard and Curran and they are in the process of responding to what he believes was one last item that was partially addressed, which was very minor in nature, was on one sheet or drawing that showed a 40 foot area of disturbance around the wells, when it's actually 20 feet and he is in the process of rectifying that. He further stated that he will probably be submitting that back to Director of Planning Dym, Consulting Town Engineer Barbagallo and Project Engineer Jennifer Martinez of Woodard & Curran tomorrow or the following day. He further stated that after that, once he gets all of the New York State Department of Environmental Conservation (NYDEC) Wetland Disturbance Permit, he can then provide that to the Westchester County Department of Health, who he expects will issue the well site approval. Once he gets the well site approval, he can send that over to the Town and then would expect to get the Wetland Permit and then they will be drilling. He stated that in terms of a schedule, he believes they will be drilling some time in February, which is a good time to drill, assuming the ground is frozen because there is minimal vegetation and less disturbance.

Chairman Currie stated that prior to him continuing the Public Hearing, he asked if Consulting Town Engineer Barbagallo or Director of Planning Dym had any comments.

Consulting Town Engineer Barbagallo stated he has some additions to the draft resolution that came into his office on January 12th, the majority of which is complete but he has a few cleanup items to address. If the Board chooses to act this evening on this item, he will go through a list of additional contingencies and/or conditions of the approval that will need to be added but other than that, he is comfortable with the Board proceeding.

Chairman Currie asked Ms. Gannon if there was anyone from the Public who wanted to speak.

Ms. Gannon stated that there were no text messages or calls coming in on the Town cell phone.

Chairman Currie stated that before he moves to close the Public Hearing, he wanted to thank Ms. Gannon for her efforts.

Ms. Gannon stated that it wasn't a problem and it was her pleasure. She further stated that Patty Kalba, Town Clerk, is a pleasure to work with and makes it very easy.

Chairman Currie asked if there were any comments from the Board before he closed the Public Hearing.

On motion by Chairman Currie, seconded by Mr. Mattes, and unanimously carried, the Board moved to close the Public Hearing.

Chairman Currie confirmed with Director of Planning Dym that the Board had already declared themselves as Lead Agency.

Director of Planning Dym stated that at this time the Planning Board is accepting their role as Lead Agency.

On motion made by Chairman Currie, seconded by Mr. Zaberto, and unanimously carried, the Planning Board moved to declare themselves as Lead Agency.

Chairman Currie stated that they should just go through the EAF and the Neg Dec. He asked Consulting Town Engineer Barbagallo if he wanted to add anything to the Neg Dec.

Consulting Town Engineer Barbagallo stated that he had a couple of conditions to add to the Neg Dec.

Chair Currie asked Consulting Town Engineer Barbagallo to verbalize his conditions so that they can be brought to the Applicant.

Director of Planning Dym stated to Consulting Town Engineer Barbagallo that his conditions were to the Resolution not to the Neg Dec.

Director of Planning Dym stated that basically the EAF identified that there were no significant impacts and there's an attachment to the Negative Declaration that goes through all the reasons why this Wetland Permit, related to the drilling of the wells, would have no significant impact. She further stated that the Board is voting on drilling of the wells would have no significant impact and therefore voting to issue a Negative Declaration under SEQRA.

Chairman Currie asked if there were any Board Member comments (none were made).

On motion made by Chairman Currie, seconded by Mr. Mattes, and unanimously carried, the Board moved to approve the Negative Declaration.

Chairman Currie asked to go through the Resolution and asked Consulting Town Engineer Barbagallo to go through them so that the Applicant knows which items they are adding.

Consulting Town Engineer Barbagallo stated that these additions are in the Memorandum so they are not a surprise; it's just that the Applicant needs to provide the SWPPP, once it's updated, with their comments. He further stated that the Applicant needs to provide an NOI for coverage under the SPDES General Permit; the Applicant needs to provide copies of all required permits. Consulting Town Engineer Barbagallo stated that he has three ongoing conditions of approval: the Applicant agreed to replace trees and shrubs, remove the appropriate native trees and shrub species in suitable areas as part of the site activity; update owner's website with applicable links to educational materials on the topic of PFOS contamination and provide test results for water samples from existing wells. These conditions will be included in the final conditional approval for the project. As stated, these items were all in the Memorandum; there's nothing significant – it's just to make sure it's all written down.

Michael Shortell stated that everything Consulting Town Engineer Barbagallo mentioned was fine. He further stated that they will be submitting the SWPPP for review very shortly. He further stated that they put a rush on that because they want to include it in a bid document for connecting Well 2c to the Water Supply System; all those conditions: the SWPP, NOI, Woodard and Curran Memo – is fine.

Chairman Curried asked if the Board members had any questions for Mr. Shortell.

Ms. Gannon asked Mr. Shortell if there were going to be any conditions, and then separately, ongoing conditions for the site. She further stated that it is broken into two groups in the resolution and then on page two....."Now, therefore, be it resolved – we'll take out the question marks because we resolve that there's no further SEQRA review necessary" –

Director of Planning Dym stated that was correct – SEQRA is finished.

Ms. Gannon then stated that could be stricken out and then separate these into two groups.

Chairman Currie asked if the Board members were ok with the changes.

Director of Planning Dym asked Consulting Town Engineer Barbagallo if his office will make all these changes with Steve Woelfle.

Consulting Town Engineer Barbagallo confirmed that his office will coordinate with Steve Woelfle on getting those changes done.

Ms. Gerbino had a question having to do with that part of the memo that states the excavated material be protected and or placed so as not to interchange the watercourse area. She stated that she understands it, but would like someone to elaborate on that – does that mean you will take a rake and smooth it out?

Mr. McNamara stated that he believes it stated that the spoils have to be removed.

Consulting Town Engineer Barbagallo stated that the condition states that the spoils need to be removed.

Ms. Gerbino stated that that's not what it says in the Memorandum. It states excavated protected and/or placed so as not to interchange the watercourse area. She asked why doesn't it say "removed"?

Consulting Town Engineer Barbagallo stated if you look at the conditions, Steve Woelfle wanted those removed off-site. After the spoils removed those sites – during the process, they are protected.

Ms. Gerbino stated that she had reasons for asking – She further stated that she lives in the first house built in West Somers Park and then 175 came after her. They had a lot of problems having to do with drilled wells.

Consulting Town Engineer Barbagallo stated that's why during the process, it's protected from going in the water course and after they are done, it leaves the site.

Ms. Gannon asked Consulting Town Engineer Barbagallo if it made more sense. Condition eight so that it follows Condition three?

Consulting Town Engineer Barbagallo responded to Ms. Gannon that it did make more sense.

Chairman Currie asked Director of Planning Dym and Consulting Town Engineer Barbagallo if they made note of that.

On motion made by Chairman Currie, seconded by Ms. Gannon, and unanimously carried, the Board moved to grant Resolution 2021-02 Approval for Wetland and Watercourse Projects Permit to New York American Water Company/Willow's Homeowners Association, as amended.

PROJECT REVIEW

INSITE WIRELESS GROUP LLC, SPECIAL PERMIT RENEWAL FOR THE PROPERTY KNOWN AS 121 ROUTE 100 (AMATO PROPERTY): TM: 38.17-1-5.

Chairman Currie explained that this was an Application of Insite Wireless Group LLC for Renewal of their Special Permit for an existing approved Facility located at 121 Route 100 on a site located in an R80 Residence District owned by Michael Amato. Chairman Currie stated that there was a Representative present for the Applicant.

David Kenny, an attorney with Snyder and Snyder, introduced himself and advised he was there to represent Insight Wireless Group with their Special Permit Renewal Application. He stated that since their last meeting, they had their engineer file for the Certificate of Authorization with the New York Department of State. He further explained that although they filed the application on December 29th, 2020, they were told that due to Covid there would be some

delay in processing of the Application. A copy of the Application does show the actual Certificate of Licensing for the Engineer; the Engineer's license, the distinction made at the last meeting, and the Certificate of Authorization, are not the same as a licensed engineer – it's really more of a secondary authorization for the company the engineer works for - not actually the license of the engineer itself. He further stated that they submitted photos showing that the housekeeping tasks that they submitted in the NBC report have been completed and have been addressed. He explained that they were at this meeting to confirm that they reviewed the Woodard and Curran Report and agree with the two conditions and will submit a copy of the Certificate of Authorization once it is issued. He explained that they will have the Reports re-issued and re-dated so that they are compliant with an active Certificate of Authorization when they have been issued.

Consulting Town Engineer Barbagallo stated to Attorney Kenny that he had reached out to their office because there was a question of grandfathering status and he wondered if that had been approved and if they received their Certificate of Authorization after that – the Planning Board never received an answer on that issue. In addition, as to the housekeeping issues, Project Engineer Martinez of Woodard and Curran has indicated to him that she has confirmed that those items have been completed as outlined by the Applicant.

Chairman Currie asked both Consulting Town Engineer Barbagallo and Director of Planning Dym if they felt comfortable with the draft Resolution and both replied that they did.

Chairman Currie asked if there were any comments from the Board Members and asked Ms. Gannon if she had found anything she was concerned with.

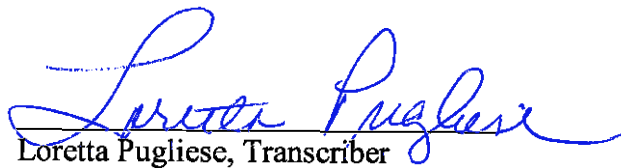
Ms. Gannon replied that when she read the Resolution, she couldn't find anything whatsoever to quibble with and found it to be a wonderful recounting of everything the Planning Board had done and credited the Applicant with doing everything they had been asked to do. She further stated that these applications have been challenging and complicated for issues of timing and credited everyone involved, who coordinated it, for their efforts.

Director of Planning Dym stated that she wanted to point out one thing to the Board that the Applicant understands and that is that the five years does not begin as of the approval that evening (1/13/21) but when it started on October 2nd, 2020, when the renewal ended, so it will go until October 2nd, 2025.

On motion made by Chairman Currie, seconded by Ms. Gannon, and unanimously carried, the Board moved to approve Resolution 2021-01, which is a grant of conditional Renewed Special Permit Approval to Insight Wireless Group LLC for the renewal of an existing approved towers Special Use Permit at 121 Route 100, the Amato tower, it's referred to Town Tax Number is 38.17-1-5.

On motion made by Chairman Currie, seconded by Ms. Gerbino, and unanimously carried, the meeting adjourned at 7:54 p.m. The Chairman announced that the next Planning Board meeting will be held on Wednesday, February 10, 2021 at 7:30 p.m.

Respectfully submitted



Loretta Pugliese, Transcriber

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