

John Currie, *Chairman*  
Vicky Gannon  
Nancy Gerbino  
Eugene Goldenberg  
Dennis McNamara  
Bruce A. Prince  
Christopher Zaberto

PLANNING BOARD  
**Town of Somers**  
WESTCHESTER COUNTY, N.Y.

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**SOMERS PLANNING BOARD MINUTES**  
**APRIL 10, 2019**

**ROLL:**

**PLANNING BOARD**

**MEMBERS PRESENT:** Chairman Currie, Mr. Prince, Mr. Goldenberg,  
Ms. Gerbino, Mr. McNamara, Ms. Gannon and  
Mr. Zaberto

**ABSENT:** Consulting Town Engineer Joseph Barbagallo

**ALSO PRESENT:** Director of Planning Syrette Dym  
Town Attorney, Joseph Eriole  
Planning Board Secretary, Barbara J. Sherry

The meeting commenced at 7:30pm. Planning Board Secretary Barbara J. Sherry called the roll and noted that the required quorum of four members was present in order to conduct the business of the Board.

Chairman Currie welcomed Mr. Christopher Zaberto to the Planning Board and thanked Mr. Dennis McNamara for his acting as Chairman of the Planning Board at the March 13, 2019 meeting.

**TIME EXTENSIONS:**

**GRANITE POINTE RE-GRANT: TM: 27.05-1-2&5**

Chairman Currie stated this is a request for the seventh (7<sup>th</sup>) 90 day time extension for the Granite Pointe 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 May 3, 2019 up to and including July 31, 2019 pursuant to 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.

Chairman Currie stated the Board is in receipt of a letter from the Syrette Dym, Director of Planning.

Chairman Currie asked if there were any comments from the Board. There were none.

On a motion by Ms. Gannon, seconded by Mr. McNamara, and unanimously carried, the Board moved to approve the seventh (7<sup>th</sup>) 90 day time extension for the Granite Pointe 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 May 3, 2019 up to and including July 31, 2019 pursuant to 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.

#### **ARTIS SENIOR LIVING (TM: 4.20-2-22)**

Chairman Currie stated this is a request for a one (1) year extension of the approval of Site Plan Approval, Stormwater Management and Erosion and Sediment Control Permit, Steep Slopes Permit, Tree Removal Permit and Wetlands Permit granted April 11, 2018 by Resolution # 2018-04 for the construction of a 72 bed Memory Care Assisted Living Facility for signature of the Site Plan, pursuant to Section 170-114 H&K of the Code of the Town of Somers for one (1) year beginning April 12, 2019 up to and including April 12, 2020. The property is located within the Somers Realty Planned Hamlet on Lot 6 of the Somers Realty Phase 3 Subdivision.

Chairman Currie stated the Board is in receipt of a letter from Director of Planning, Syrette Dym.

Chairman Currie asked Director of Planning Dym if the Board can authorize a one (1) year extension.

72 Director of Planning Dym stated yes, the applicant is entitled to a one (1) year  
73 extension to the Site Plan before requesting a ninety (90) day extension to meet  
74 the conditions of the Site Plan pursuant to Sections 170-114 H&K.

75  
76 Mr. Goldenberg asked what the plan is, do they have a lease, or did they buy the  
77 property.

78  
79 Director of Planning Dym stated the Site Plan has been approved and will ask  
80 their representative of Artis to answer your questions. What Artis's relationship  
81 to the property owner is, can be answered by their Attorney.

82  
83 Ms. Diana Kolov from the firm of DelBello, Donnellan, Weingarten, Wise &  
84 Wiederkehr approached the Board and stated she is here for the extension of the  
85 approvals that were granted on April 11, 2018. She cannot speak to the issue of  
86 the relationship between Artis and Somers Realty in the Planned Hamlet, but they  
87 are diligently proceeding to complete the conditions that were required prior to  
88 signing of the Site Plan. A submission will be made next week to respond to the  
89 Consulting Town Engineer's comments.

90  
91 Ms. Gerbino asked, the submission next week, you will address the issue Mr.  
92 Goldenberg raised.

93  
94 Ms. Kolov stated the main issues that will be addressed are the Water and  
95 Engineering Report and any other outstanding comments.

96  
97 Mr. Prince questioned, you have no knowledge of whether they have closed on a  
98 deal or not. The company is doing all this work with no ownership.

99  
100 Ms. Kolov stated Mr. Peter Wise is the Attorney who usually comes before this  
101 Board on this matter and has more information regarding that, and I can look into  
102 that, but Mr. Wise was not available this evening.

103  
104 Chairman Currie asked Ms. Kolov to relay the Board's concerns to Mr. Wise and  
105 to please respond to them in writing.

106  
107 Ms. Kolov stated yes, definitely.

108  
109 Mr. McNamara asked if Ms. Kolov stated she was making a submission next  
110 week.

Chairman Currie stated yes, that would be to the Engineer's questions/comments.

Ms. Kolov stated yes, to respond to the Engineers comments.

Chairman Currie asked Ms. Kolov to include responses of the Board's comments and questions in that letter.

Mr. McNamara stated specifically the status of the contract between the two (2) parties.

On a motion by Chairman Currie, seconded by Mr. McNamara and unanimously carried, the Board moved to approve a one (1) year time extension of Site Plan Approval, Stormwater Management and Erosion and Sediment Control Permit, Steep Slopes Permit, Tree Removal Permit and Wetlands Permit pursuant to Section 170-114 H&K of the Code of the Town of Somers beginning April 12, 2019 up to and including April 12, 2020, subject to receipt of answers to all questions asked by the Board.

On a motion by Chairman Currie, seconded by Ms. Gerbino, and unanimously carried, the Board moved to approve the fourteenth (14<sup>th</sup>) 90-day time extension for the Amended Conditional Final Subdivision Plan, Tree Preservation, Steep Slopes and Wetland Permit from March 5, 2019 up to and including June 2, 2019 pursuant to Town Law Section 276(7) ( c) and Section 150-13.M of the Code of the Town of Somers, with the condition that an easement map for water and sewer systems have a note that there will be no further subdivision and will identify the Tax ID numbers for the lots and that a Declaration of Covenants and Restrictions be drafted to include the above two restrictions.

#### **PUBLIC HEARING:**

#### **TOWNE CENTRE AT SOMERS – EXTENSION OF SEWER DISTRICT: TM: 17.15-1-13**

Chairman Currie stated this is a Public Hearing for the Town Centre at Somers and before the Hearing is opened, he asked Director of Planning Dym if she had any comments.

Director of Planning Dym stated the Town Board took action, reminding the Board that there are two (2) items going on at the same time, the first is the application for extension for the District – which is a Town Board action – and the

152 Site Plan approval which is in front of the Planning Board. The Town Board took  
153 action on April 4, 2019 making a SEQRA Determination and issued a Negative  
154 Declaration and accepted the resolution to extend the Sewer District. The Planning  
155 Board now is in a position to open the Public Hearing, take testimony and make a  
156 decision to either close or keep the Public Hearing open and then determine how  
157 to act on the Site Plan.

158  
159 Ms. Jody Cross from the firm of Zarrin and Steinmetz, on behalf of Urstadt  
160 Biddle, approached the Board stating she is here this evening in connection with  
161 the application to construct the infrastructure to connect to the Heritage Hills  
162 Sewer Plant. They are seeking Site Plan Approval, Stormwater Management and  
163 Erosion and Sediment Control Permit, Wetland Permit and Special Exception Use  
164 Permit within the Groundwater Protection Overlay District.

165  
166 Attorney Cross stated back in 2017 they were in front of the Board looking for  
167 certain site improvements relating to façade and circulation. At that time was  
168 when DeCicco's and Somers Crossing were getting their approvals and they had  
169 sought to have the Sewer District extended and this Board suggested that it would  
170 be a good idea for us to do the same. We agreed, and it became a condition of the  
171 Site Plan Approval in 2017. Since then agreements were negotiated, entered into  
172 agreements for sufficient capacity and made an application to the Town Board to  
173 extend the District and to this Board for the necessary infrastructure. As stated by  
174 Director Planning Dym, on April 4, 2019 the Town Board declared themselves  
175 Lead Agency, adopted a Negative Declaration and accepted the Petition to Extend  
176 the Sewer District, and she understands that it has already been filed with the  
177 Secretary of State and the Westchester County Clerk as required under law.

178  
179 Attorney Cross added the last memos received from the Director of Planning and  
180 Consulting Town Engineer, it appears aside from some technical issues, there  
181 seem to be items that could be conditions, she believes all substantive comments  
182 have been addressed.

183  
184 Attorney Cross informed the Board that they had asked for a representative of  
185 Heritage Hills to be at this meeting, but were not able to attend. She also stated,  
186 Town Consulting Engineer (CTE) Joseph Barbagallo was at the site and was given  
187 a full briefing of the status, it seems that everything is up and running and it could  
188 be as early as the end of this week that DeCicco's is granted permission to hook  
189 up. She said this is all hear say, but I am passing along the information that was  
190 given to me.

192 Mr. Prince asked Attorney Cross who she meant when she said a representative  
193 from Heritage Hills.

194  
195 Attorney Cross stated from Heritage Hills Sewer Company.

196  
197 Mr. Rob Aiello, Engineer for Urstadt Biddle Properties, approached the Board and  
198 stated the Site Plan submitted to the Board included Route 202 on the right, Route  
199 100 on the bottom and the DeCicco's Supermarket. The application includes  
200 placing all the existing buildings on the site into the Municipal Sewer System by  
201 way of three (3) pump stations. Mr. Aiello pointed out the locations of the pump  
202 stations stating all three (3) would be put into separate force mains which would  
203 connect into a manhole on the DeCicco's property. The mains have already been  
204 installed prior to the paving of the parking lot.

205  
206 Engineer Aiello added with regard to the items we are here for the Site Plan which  
207 Ms. Cross spoke about. In terms of the Wetland Approval, Mr. Aiello pointed out  
208 to the Board, on the adjacent property, Somers Crossing is a New York State  
209 Department of Environmental Conservation (NYSDEC) Wetland and its  
210 associated one hundred (100) foot buffer or control area. This work which  
211 includes the pump station and generator and the piping is partially within the  
212 NYSDEC buffer. This requires a Wetland Permit from both the Town and  
213 NYSDEC. Because the project is within the New York City Watershed and there  
214 is over five thousand (5,000) square feet of disturbance they are required to go to  
215 the New York City Department of Environmental Protection (NYC DEP) for  
216 approval of the Stormwater Pollution Prevention Plan (SWPPP), which is  
217 essentially an Erosion Control Plan.

218  
219 Engineer Aiello stated since the last Planning Board meeting it has been  
220 confirmed that the two (2) generators will be propane fueled and details have been  
221 submitted, a generator has been relocated further away from the adjacent Town  
222 Houses on the Somers Crossing Site, and five hundred and fifty (550) gallon  
223 propane tanks have been provided for both of the generators. The Consulting  
224 Town Engineer's memo has been reviewed and we believe there are just minor  
225 erosion control details that need to be worked through, in addition to the permits  
226 and approvals that are needed from the Health Department, NYCDEP and  
227 NYSDEC. They will address the comments with the Consulting Town Engineer  
228 going forward.

229  
230 Chairman Currie asked if there were any Board member questions or comments.

232 Mr. Prince stated to Mr. Aiello, you mentioned in your statement “Municipal  
233 Sewer System”. This is not a Municipal Sewer System, this is in fact a private  
234 Sewer System.

235  
236 Mr. Prince also asked if he had any idea when this will be operable.

237  
238 Engineer Aiello stated there is probably another few months of permitting to go  
239 through, we have been working with contractors for pricing, we are ready to start  
240 construction as soon as we get our permits.

241  
242 Attorney Cross asked approximately how long construction will take place.

243  
244 Engineer Aiello stated three (3) to four (4) months.

245  
246 Mr. Zaberto asked about the intent of the generators. Are they for emergency  
247 stand by or will they be running all the time to operate cooling equipment or  
248 something.

249  
250 Engineer Aiello stated they are emergency stand by generators.

251  
252 Mr. Zaberto said if the facility loses power then those would kick in to keep  
253 merchandise cold or refrigerated or power on.

254  
255 Engineer Aiello stated their purpose is to keep the pumps running. The proposed  
256 generators are solely for the purpose of the pumps. In addition, the generators will  
257 be exercised on a weekly basis for about an hour, but will only be used for an  
258 extended basis during a power outage.

259  
260 Mr. Zaberto asked if the tanks are above or below ground.

261  
262 Engineer Aiello responded they are above.

263  
264 Chairman Currie asked about the publishing and notification of the Public Notice.

265  
266 Planning Board Secretary Barbara J. Sherry stated the notice was published in the  
267 Somers Record on March 28, 2019 and notices were mailed to the neighboring  
268 and abutting property owners on March 28, 2019.

269  
270 Chairman Currie asked if there was any comments from the public.

271

272 There were none.

273

274 On a motion by Mr. McNamara, seconded by Ms. Gannon, and unanimously  
275 carried, the Board moved to close the Public Hearing.

276

277 Director of Planning Dym stated she spoke with Consulting Town Engineer  
278 (CTE) Joseph Barbagallo in his absence, about the outstanding items in his April  
279 5, 2019 memorandum. There are a number of items that the applicant still has not  
280 fully addressed. CTE Barbagallo felt if the Board closed the Public Hearing and  
281 wanted to move forward with Site Plan approval he was ok with that, as long as  
282 there is a condition that all of the conditions of their April 5, 2019 memorandum  
283 be met prior to signing of the Site Plan.

284

285 Chairman Currie asked the Board if they were okay with that. All were in  
286 agreement.

287

288 Ms. Gerbino stated there is an item that is not addressed.

289

290 Mr. McNamara stated there are several items that are not addressed.

291

292 Director of Planning Dym stated there are several items that are partially  
293 addressed and two that are not addressed.

294

295 Attorney Cross stated they are fine with those being conditions of approval.

296

297 Chairman Currie asked if the Board is okay with this.

298

299 Mr. McNamara asked if the Resolution will be ready for the next meeting.

300

301 Director of Planning Dym stated no.

302

303 Chairman Currie stated for the June meeting.

304

305 Attorney Cross stated they are fine with that as long as they can move forward  
306 with processing the approvals once they have the Negative Declarations.

307

308 Director of Planning Dym stated you still need to meet all the conditions of the  
309 resolution.

310



311 Attorney Cross stated they did not want to be delayed with the outside agency  
312 approvals for two months but they can move forward with the SEQRA  
313 designation.

314  
315 Mr. McNamara asked if any of the unaddressed items that can be addressed in the  
316 interim cleans up the resolution.

317  
318 Attorney Cross stated that some of the unaddressed items are getting the permits  
319 from outside agencies.

320  
321 Mr. Timothy Allen, Engineer with Bibbo Associates, approached the Board and  
322 stated that DeCicco's received approval today to start the operation of opening.  
323 Not the final operation of opening, all this blends into that and it is good news for  
324 everybody in Town.

325  
326 Ms. Gerbino asked if that means the Consent Order has been resolved.

327  
328 Engineer Allen stated not on the plant, but the temporary bypass and all the  
329 infrastructure that has been put in has been accepted by the Westchester County  
330 Health Department (WCHD). So, therefore, we are proceeding on that note and  
331 DeCicco's should be at least getting the operations close to opening.

332  
333 Mr. Prince asked if they have received approval from the WCHD.

334  
335 Engineer Allen stated they received verbal approval from the WCHD that the by-  
336 pass was ok, therefore all of our calculations and starting the process of opening  
337 DeCicco's is ok. This is not to say that DeCicco's can open tomorrow. They are  
338 going to need about five (5) weeks for opening.

339  
340 Mr. Prince asked if they are still doing work on the sewer works.

341  
342 Engineer Allen stated correct. Right now what is done is they have accepted the  
343 by-pass and everything else that is allowed. Today they stated there is no  
344 discourse to the by-pass and secondly, in a follow up to a conversation with the  
345 WCHD this morning, there should be no problem with DeCicco's starting to  
346 prepare getting water onto their site so that they can start to open.

347  
348 Engineer Allen stated he believes the Sewage Treatment Plant is still in testing  
349 and that is the issue that needs to be resolved prior to the final opening of  
350 DeCicco's and Somers Crossing.

351 Mr. Prince asked if WCDH will not give approval until the sewer company is  
352 functional.

353  
354 Engineer Allen stated on Final Approval yes, you are correct. They can start their  
355 operations on a limited basis, but Final Approval will be subject to the sewage  
356 treatment plant being signed off on.

357  
358 Mr. Goldenberg asked if they have a Certificate of Occupancy once everything is  
359 settled before they can open up.

360  
361 Engineer Allen asked, on Somers Crossing or DeCicco's?

362  
363 Mr. Goldenberg stated on the Supermarket.

364  
365 Engineer Allen stated from the Town stand point, DeCicco's is ready to open.

366  
367 Ms. Gerbino stated they already have their Certificate of Occupancy.

368  
369 Engineer Allen stated they have been ready for a year now. He added that  
370 obviously they are dealing with the issue of the sewage treatment plant, and as  
371 mentioned by Mr. Prince, that is ultimately the goal and has to be done.

372  
373 Chairman Currie asked if there were any other Board member comments. There  
374 were none.

375  
376 **T-MOBILE – 2580 ROUTE 35: TM: 37.13-2-3**

377  
378 Chairman Currie stated this is an application of T-Mobile Northeast LLC to co-  
379 locate antennas, together with the installation of ancillary equipment onto the  
380 existing facility without any increase in height. The facility is located at 2580  
381 Route 35 and is in an R120 Zoning District.

382  
383 Mr. David Kenny, Attorney from Snyder & Snyder approached the Board and  
384 stated he was representing T-Mobile Northeast LLC, for a co-location application  
385 at the existing facility at 2580 Route 35, Somers.

386  
387 Attorney Kenny stated this is an existing one hundred and thirty five foot (135')  
388 monopine, which is a monopole that is designed to look like a tree. T-Mobile will  
389 be co-locating its equipment at the one hundred and seven foot (107') elevation as  
390 shown on the drawings. The antennae's will not increase the size of the facility,

they will be located within the faux branches so there will be no changes to the facility at all, other than the addition of T-Mobile's antennas and some equipment on the ground. All the equipment on the ground will be within the existing fenced in compound, so there will not be any change to the dimensions of the equipment facility.

Attorney Kenny stated he is here this evening to see if there are any questions from the Board. He added they have received comments from Director of Planning Dym and CTE Barbagallo. This facility has its permit current and in effect so there is no need for an additional renewal at this time, the only project now is to see if there are any questions from the Board on this application.

Ms. Gerbino asked if there would be any visual change.

Attorney Kenny stated no, because the idea is to keep the monopine design and keep it within the faux branches.

Mr. Prince asked if there is any site work to be done.

Attorney Kenny stated no, everything will be done within the existing fenced in equipment compound. There will be some ground equipment located within the compound, but nothing will change, there will be no bump out or an enlargement of the fenced compound at all.

Mr. Prince asked, when you say there is going to be equipment, will the equipment be sitting on an existing foundation.

Attorney Kenny responded that there will be a new concrete pad placed for the proposed T-Mobile equipment.

Chairman Currie read the following from a memo prepared by CTE Barbagallo:

"The applicant is proposing small site disturbance due to the construction of a new 8x13 foot concrete pad for the proposed telecommunication equipment. The concrete pad will be constructed within a fenced area on the property on the existing gravel surface. The applicant shall ensure that erosion is controlled during construction to prevent sediment mitigation offsite."

Chairman Currie added that was CTE Barbagallo's only comment on this project and that it will go on a new 8x13 foot pad and wanted this placed in the record.

Mr. Prince stated he wanted that information out there, as Attorney Kenny did not seem to want to volunteer it.

Attorney Kenny stated he understood, but did not know if it was highly important. It will be within the equipment compound, is a small impervious surface and silt fences will be used to minimize any sediment and erosion.

Mr. Zaberto asked if T-Mobile is currently on the tower.

Attorney Kenny stated no, they are not, which is why this is a co-location application to an existing facility. He believes Verizon & AT&T are already existing on the facility.

Mr. Zaberto asked if this would improve service for T-Mobile customers in the area.

Attorney Kenny stated yes, there is a need for this service in the area and rather than build their own facility, they found they could co-locate on an existing facility.

Mr. Zaberto asked if the pad that is needed is to place T-Mobile's proprietary equipment on, so that you can run the equipment and improve the T-Mobile services of customers that live in the vicinity of the cell tower.

Attorney Kenny stated exactly, the function of the cell tower is the antennae on top, but there is ground equipment that powers the antennae.

Mr. Prince asked Attorney Kenny if he has any idea how far out this antennae will go, how it will affect the carrier and the functional benefit of this to help T-Mobile customers.

Attorney Kenny responded that he did not have those dimensions with him this evening, but as a co-location application this is essentially done for the need in the area instead of building their own tower.

Ms. Gerbino stated, historically Route 35 near the dam is a dead area from there all the way to Whitehall Corners. Between that tower and the tower at Whitehall Corners, that will give cell phone coverage for the first time in this area.

Mr. McNamara stated he thought the range of service is dependent on the topography of the area.

Attorney Kenny stated that is absolutely correct.

Mr. McNamara, Ms. Gerbino and Ms. Gannon briefly spoke about the service on the opposite side of Lasdon Park. The people that not only live there but the people that travel the corridor and how heavily traveled this road is.

Chairman Currie asked Director of Planning Dym if she had any comments.

Director of Planning Dym said, as stated in her memo, the Board has to determine that both the pole, and in this case the carrier, as a new carrier, and the Board will have to vote on, but the pole is in compliance because the approval of the pole was done by a resolution of the Zoning Board of Appeals and was in compliance as of 2016 so the Board can allow the co-location as the pole is in renewal compliance.

Chairman Currie asked if there was any comments from the Board. There were none.

Chairman Currie ask the Board their feelings on waiving the Site Plan and Public Hearing.

Ms. Gannon stated she agreed to the waiving of the Site Plan and Public Hearing as the site is minimal and is prepared for this and there will be no visual change of significance and she sees no reason to prolong the process.

On a duel motion by Chairman Currie, seconded by Mr. Goldenberg, and unanimously carried, the Board moved to waive the Site Plan Approval and the Public Hearing.

On a motion by Chairman Currie, seconded Mr. McNamara, and unanimously carried, the Board moved to declare this a Type II Action under SEQRA for approval for the co-location of the T-Mobile antennas.

**NEW CINGULAR WIRELESS PCS LLC “AT&T” (CROWN CASTLE):  
243 ROUTE 100: TM: 28.10-1-6.1**

Mr. Taylor Palmer with the law firm of Cuddy & Feder on behalf of New Cingular Wireless PCS LLC, approached the Board and introduced Ms. Virginia Deralt, Site Acquisition Council for AT&T and an AT&T Engineer.

Attorney Palmer stated they are here in connection with AT&T’s “Eligible Facilities Request” to upgrade the existing concealment monopole at 243 Route 100, which is on the Majestech Site on the west side of Route 100, in the Office and Light Industrial District.

Attorney Palmer stated the applicant is proposing to replace the canister of the existing antennae and install new equipment at approximately eighty seven feet (87’) of the ninety seven feet (97’) to one hundred feet (100’) existing monopole. There are some minor changes to the existing compound, which will be fully contained in the compound. This application does not increase the height of the structure and the changes will be internal to the monopole.

Attorney Palmer added they did receive and review comments from Director of Planning Dym with respect to the application. This is another one of those applications where the tower was approved by the Zoning Board of Appeals and a renewal was granted for the property last year. A site inspection was held three (3) years ago specific to a Zoning Board of Appeals Approval.

Engineer Peter Ludis, Licensed Engineer in the State of New York, approached the Board and stated this project is an existing one hundred foot (100’) monopole. On the elevation sheet of the construction drawings the base section is approximately sixty feet (60’) in length, which is composed of steel tubular structure and the top is approximately forty feet (40’) and is made up of some RF transparent canisters which conceal the antennas. AT&T has two (2) existing RAD (radiation) centers at approximately eighty-seven feet (87’) and ninety-seven feet (97’) above grade.

Engineer Ludis added AT&T is proposing to swap the existing six (6) antennas with six (6) proposed new antennas and with that do a minor expansion of the existing canister from twenty eight inches (28”) to thirty six inches (36”) in diameter to accommodate the larger antennas. In addition, there is some ground work that is proposed: 6 proposed radio heads to be mounted on existing steel frames that are mounted to the concrete pads within the compound.

549 Chairman Curries asked if these are existing pads.

550

551 Attorney Ludis stated yes.

552

553 Mr. Prince asked if this was existing concrete.

554

555 Attorney Ludis responded yes, adding existing concrete pad and existing steel  
556 framing.

557

558 Mr. Prince asked Mr. Ludis to review what he said about the width.

559

560 Attorney Ludis stated the first section, as shown on the plans, is a steel mast that is  
561 about eight inches (8") in diameter and six inches (6") in diameter. There is a  
562 twenty-eight (28") inch plastic ABS skin that conceals the antennas so that they  
563 are not visible. Because the new antennas are larger and also because of the  
564 mounting system that attaches them to the spine that sticks out a little bit more,  
565 they do need to slightly bump out the existing canisters, which is represented by  
566 the GPD drawings that were prepared along with some modification drawings  
567 also.

568

569 Mr. Prince asked what the twenty-eight inches (28") will become.

570

571 Attorney Ludis responded it will become thirty six inches (36").

572

573 Chairman Currie asked if the firm that prepared this is licensed in the State of  
574 New York.

575

576 Attorney Ludis responded yes.

577

578 Ms. Gannon asked about Director of Planning Dym's memo that states under  
579 "Structural Report and Status of Renewals, Item No. 4: Paint new existing  
580 material in the modified region to match existing tower finish."

581

582 Ms. Gannon asked Attorney Ludis when the last time the tower was painted was.

583

584 Attorney Ludis responded that he believes the tower was constructed in 2016 and  
585 most likely it was painted then.

586

587 Ms. Gannon stated that this is the Majestech tower and that was constructed  
588 considerably earlier.

589 Attorney Palmer stated the last on-site visit that took place was 2016 and a copy  
590 was provided to the Director of Planning Dym for the benefit of the Board. It  
591 looks in relatively good condition based on those visual conditions, but the  
592 proposed canister addition will be paint matched to the color, which I believe is  
593 green.

594  
595 Ms. Gannon stated the reason she asked is because, at the time, the monopole at  
596 the Somers Town Centre was under discussion the applicant made the case that  
597 they wanted to be treated in the same way as the applicant for the Majestech  
598 property. At that time she was a new member to the Board and went and  
599 researched the file and found, at that time, the color of the pole was to be Enviro  
600 Green.

601  
602 After further discussion about the color of the pole, Attorney Palmer stated a  
603 condition of approval can be added that the paint be matched to the existing color  
604 on the pole in the field.

605  
606 Attorney Palmer stated the only other comment is that they are seeking a waiver  
607 of the Public Hearing requirements.

608  
609 Director of Planning Dym stated she thought they had this straightened out in their  
610 phone conversation about the status of the pole itself, what is known as the  
611 Majestech Pole, and it is my understanding from reviewing these, and I will tell  
612 the Board how painstaking it is to attempt to figure out the history of approvals  
613 and the status of each on one of these is and I have enlisted the assistance of some  
614 of the applicant's attorneys to make certain that we know where each one is and  
615 bring them up to date. It is my understanding that what we had determined was  
616 that the Planning Board Resolution of 2016 was issued on May 11, 2016 but  
617 somehow, even based on that date, because there had been – years before – there  
618 had been a gap that it was only three (3) years and for some reason expired on  
619 December 30, 2018 and therefore was no longer in compliance and you were  
620 going to provide to the Planning Board an updated renewal of Majestech.  
621 Director of Planning Dym asked if this correct.

622  
623 Attorney Palmer responded yes, that is correct.

624  
625 Director of Planning Dym stated she thought the impression you gave the Board  
626 was that it was in compliance.

627



628 Attorney Palmer stated the quandary of the process, as Director of Planning Dym  
629 stated, is we went through a list of all the approval resolutions, as there was a  
630 series of Zoning Board of Appeals (ZBA) Resolutions before there were any  
631 Planning Board Site Plan Resolutions, so the approval resolutions speak to the  
632 issue of Carrier v Tower. This once was an AT&T owned Tower, the Tower is  
633 now owned by Crown Castle and the Tower is now requiring the renewal.

634 Whereas the applicant has recently received a renewal from the ZBA last year,  
635 and we are here now for an upgrade and the Tower owner needs to come in for a  
636 renewal. Crown Castle has been in communication with the Town initially to put  
637 into motion their renewal application for the Tower. Ultimately we will be  
638 seeking an approval subject to the similar on-site inspection requirements as you  
639 recently considered for the Somers Commons site, in which they had one month  
640 left on its existing five (5) year period. The reason why the renewal was granted  
641 in 2016 is no longer valid as it was only granted for three (3) years not five (5)  
642 years. Because it was backdated for two (2) years from the original date, because  
643 of some confusion of the Planning or the Zoning Board resolutions that applied to  
644 the site. We are coming together, Crown Castle will be in and our site acquisition  
645 counsel has been in communication with Crown Castles' counsel and believes  
646 they have been in contact with the Town Planner so that they can get this before  
647 the Board.

648  
649 Attorney Palmer stated it could be a conditioned approval on the owner and for  
650 the benefit of the Board generally speaking these approvals are good for five (5)  
651 years when we renew an application before this Board. The on-site inspection that  
652 took place in 2016 is fewer that the five (5) years so we are not saying you would  
653 not require Crown Castle to do such an on-site inspection to renew it for five (5)  
654 years but it is still good for at least two (2) more years from the on-site inspection  
655 perspective, if you were to look at it as a new renewal.

656  
657 Chairman Currie asked if you would have to come back before the five (5) years  
658 were up for another inspection.

659  
660 Attorney Palmer stated Crown Castle would have to come back within two (2)  
661 years, it probably would be to their benefit to do another inspection and get the  
662 full five (5) years. For the benefit of the structural integrity of the Tower, we did  
663 submit a structural with our application.

664  
665 Mr. McNamara opined that it is too bad they are not coordinated, the user and the  
666 owner and stated their renewals should come together at the same time.

668 Director of Planning Dym stated this is because the providers require different  
669 arrays, etc. at different times.

670  
671 Mr. Prince asked what part of the towers come under the jurisdiction of the  
672 Zoning Board of Appeals and what part come under the jurisdiction of the  
673 Planning Board.

674  
675 Director of Planning Dym stated several of these did go to the Zoning Board of  
676 Appeals (ZBA) unknown to the Planning Board and received approvals. In  
677 consultation with the Town Attorney, the division that has been made is the  
678 following: if an application for either the tower or the provider initially occurred  
679 prior to the Wireless Telecommunication Section to the Zoning which was added  
680 in 2002 if it predated that and was originally approved by the ZBA, it goes back to  
681 the ZBA. Post 2002 and initially came to the Planning Board, then it comes back  
682 to the Planning Board. That is supposed to be what happens now, but it does not  
683 necessarily happen that way.

684  
685 Discussion ensued on this matter with Director of Planning Dym stating we are all  
686 doing our best to keep this as unconfused as possible, but I must say it is not easy.

687  
688 Mr. McNamara asked if we can change the rules so that any request to the ZBA be  
689 referred to the Planning Board for decision and or action. He also asked if this  
690 should take Town Board action.

691  
692 Town Attorney Eriole stated yes it would take Town Board action.

693  
694 Director of Planning Dym stated this is a discussion for Attorneys Eriole and  
695 Baroni.

696  
697 Mr. McNamara added this would be a way of streamlining the entire process.  
698 Then we could set up a database with every tower in Town.

699  
700 Attorney Eriole added then only one Board would be tracking this.

701  
702 Chairman Currie asked Director of Planning Dym, how we can waive the Site  
703 Plan and Public Hearing, put conditions in subject to comments from yourself and  
704 Consulting Town Engineer Joseph Barbagallo.

705  
706 On a motion by Chairman Currie, seconded by Mr. McNamara and unanimously  
707 carried, the Board moved to approve waiving the Site Plan Approval and the

Public Hearing for the New Cingular Wireless (Crown Castle Tower) application located at 243 Route 100.

On a motion by Chairman Currie, seconded by Mr. McNamara and unanimously carried the Board moved to determine this as a Type II Action under SEQRA and that no further action from SEQRA is required.

On a motion by Chairman Currie, seconded by Ms. Gannon and unanimously carried, the Board moved to approve the Special Use Permit under Section 170-129.6 and Section 129.9 of the Code of the Town of Somers with all the conditions of Director of Planning Dym being satisfied.

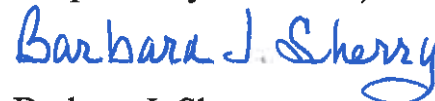
A brief discussion ensued regarding the approving entity – whether it be the Zoning Board of Appeals and the Planning Board.

Director of Planning Dym reminded the Board of the Westchester Municipal Planning Federation (WMPF) event to be held on Thursday, April 18, 2019, beginning at 6:30pm and the panel discussion begins at 7:00pm, at 360 Hamilton Avenue, White Plains NY. The Keynote speakers on the changing economy, transportation and on the retail environment, Mr. Sam Schwartz will be speaking about congestion pricing and its impacts and also on autonomous vehicles and Joan McDonald will be speaking about transportation and all the changes, i.e. Uber, Lyft, Electronic Vehicle, etc. and then the changing in the economic environment and how it is impacting retail environment, there will be two people from consulting firms intimately involved and then the Mayor of Mt. Kisco will be there to comment on the impacts at the local level.

Chairman Currie announced the next Planning Board meeting is on May 8, 2019.

On a motion by Chairman Currie, seconded by Mr. McNamara and unanimously carried, the Board move to adjourn the meeting at 9:00pm.

Respectfully submitted,



Barbara J. Sherry  
Planning Board Secretary