

# Town of Bristol

Planning Board  
September 9, 2015  
Minutes

**Members Present:** Patti Giordano Chairman, Joann Rogers, Bob Drayn, Bob Stryker, Bob Raeman and Secretary Sandra Riker

**Others Present:** Andrew Leja, Wes Webber, J R Lynch, Lorraine Barnum, William Barnum, Marilyn Davenport, Thomas Lowe, Marianne Maynard, Keith Maynard, Lance Bassage, Rocco Venezia, Pat Venezia, Norman Davenport, and Carol Vassallo

**Minutes:** The minutes of August 3, 2015 were reviewed by the Board and a motion was made by Bob Raeman with a second by Bob Drayn to accept them as written. All Board members agreed.

Lochte & Knight Subdivision:

The public hearing was opened by the Chairwoman Patti Giordano.

A question was raised at the August meeting regarding the existing right of way shown on parcel 1 regarding the width and when it was established. A revised map was presented showing the right of way that extends to parcel # 110.00-1-1.210 and is marked 49.5' in width and is dated September of 1986 which is prior to our current zoning regulations.

The Chair asked if there were any public comments. Mr. Bassage inquired if the right of way they were referring went to the Andrews Cemetery? The Board told him it did not; the right of way is on the southwest side of parcel 1 and goes to land currently owned by John Macca. There were no further questions or comments and the public hearing was closed.

Environmental Assessment Review was completed by the Board and a motion was made by Patti Giordano to declare a Negative Declaration with regard to SEQRA. This was seconded by Bob Stryker and all Board members agreed.

A motion was made by Bob Raeman with a second by Bob Stryker to approve the minor subdivision map as presented. All Board members agreed.

### **Davenport Lot Line Adjustment:**

The lot line adjustment map for tax map # 137.00-2-36.100 was presented by Norman and Marilyn Davenport to convey .025 acres to the adjoining parcel tax map # 137.00-2-36.200 that belongs to their son-in-law Tom Lowe. The following points were noted by the Board:

- The rear of the barn is only 20' from the proposed lot line, the Board would prefer that it was the accepted 50' as required by current zoning, if this is not possible it will require a variance request for the reduction in distance of 50' to 20' from a rear lot line
- The side of the barn has an overhang which you state will be removed, it is 12.5' in width this also represents the distance of the barn to the side lot line proposed, the required distance is 25' requiring another variance necessary for reduction of side set back from 25' to 12.5' in distance
- You have stated it is not possible to move that line as the septic area for your home on parcel 137.00-2-36.100 is in that area, the Board has asked a revised map be presented including a delineation of the septic area that would support the need for a lot line reduction at that point
- The Board also noted that the total acreage of the two parcels is 3.7 acres in size and would like to see the proposed lot line adjustment make the two parcels as close to 2 acres each as possible to make them conform to the current zoning requirements of a minimum 2 acres for a single family lot in the A-C district

The Board agreed to table any further discussion until the above points were addressed by the Davenports and a revised map presented.

### **Vassallo Lot Line Adjustment:**

Carol Vassallo has appointed Venezia Associates to act as applicant for her on this application and a letter signed by her stating her intentions was presented with the application.

A map was presented by Rocco Venezia showing the lot line adjustment requested by Carol Vassallo to reduce her parcel # 123.00-2-18.100 from 5.017 acres to 3.05 acres including her home and to increase her son's adjoining parcel # 123.00-2-18.200 from 2.00 acres to 4.012 acres in size. Mrs. Vassallo has agreed to sell her home with 3.05 acres and would like to complete the lot line adjustment prior to the closing of the sale of her home.

The map presented shows the existing leach field for parcel 123.00-2-18.100 is located on the adjusted acreage for parcel # 123.00-2-18.200. Mrs. Vassallo advised the Board that she has contacted Grove Engineering to design a new leach field on the remaining acreage of 123.00-2-18.100 and Craig Deats would be doing the work involved to complete its relocation. At this time, a septic permit has not been received by the Code Office for the Town of Bristol.

The Board said they would be willing to do a contingent approval of the lot line adjustment but a final map revised to show the completed and approved septic system will need to be presented for final approval by the Board. This needs to be completed " within 60 days on which said plat

is approved or considered approved by reasons of failure of the Planning Board to act, shall become null and void unless the particular circumstances of said applicant warrant the Planning Board to grant an extension, which shall not extend two (2) additional periods of ninety (90) days.”\*

A motion was made by Bob Raeman with a second by Bob Drayn to do a contingent approval of the lot line adjustment shown on the map dated 8/25/2015 drawn by Venezia Associates based on a final revised map be presented within sixty (60) days showing the new septic system on parcel # 123.00-2-18.100 with the appropriated documents saying the system as being approved and accepted by the Town of Bristol. All Board members agreed.

The Environmental Assessment Review was completed resulting in a Negative Declaration with a motion made by Patti Giordano with a second by Bob Raeman. All Board members agreed.

Pat Venezia said as soon as the septic changes were completed they would be providing the Board with the revised map they have requested.

\*As written in our minor subdivision application.

#### **Crown Castle/Verizon Wireless Site Plan:**

Andrew Leja, Attorney for Barclay Damon, LLC representing the applicants gave the Board an overview of the Application of Crown Castle/Verizon Wireless to construct a 160’ tall monopole telecommunications facility at 7912 Route 20A in the town of Bristol under tax map # 123.00-1-56.111. The tax parcel belongs to Kim and Greg Ward. This parcel is located in both the A-C and L-I districts of the town of Bristol. Mr. Leja advised the Board a meeting with the ZBA Board was held on September 8<sup>th</sup> at which time he presented applications for Special Use Permit, Use Variance, Area Variance, and Site Plan. The reason for such a complete group of applications is because of a conflict between our current zoning regulations and **Local Law 1-2007: *the installation of antennas, parabolic dishes, towers, windmills, and energy creating devices.*** He said the ZBA would need to make a determination if a special use permit or the use variance would be required for the placement of the Tower on the Ward parcel. He went on to say the ZBA asked for a clarification from County Mapping as to which district the tower actually was located in per the coordinates on the project information drawn up by Infinigy for Crown Castle/Verizon Wireless on 8/20/15. They will have that information before their next meeting in October.

Verizon is considered a public utility in New York for zoning purposes and is licensed and regulated by the Federal Communications Commission. The purpose of the Tower is to provide a place for Verizon to upgrade its network in Ontario County to provide its public utility service to the residents and visitors in the area and improve its service due to customer demand. In order to provide adequate wireless service to the Bristol area, Verizon must place a telecommunications facility in a technologically appropriate location. The proposed tower placement is between the Bristol Tower located on State Route 64 and the Honeoye Tower located in the Town of Richmond.

The project entails the construction of a 160' monopole, as well as the placement of twelve (12) panel antennas and related equipment at a height of 160' on the monopole. Cabling will run along the interior of the monopole and connect the antennas to Verizon's 12' by 30' equipment shelter located at the base of the facility. The monopole, equipment shelter and related equipment will be surrounded by a 60' by 60' fenced compound. There is room on the tower for additional wireless companies to place their equipment on the tower. This is known as colocation and encouraged by the Town as it helps reduce the need for additional towers.

The Ward parcel has been chosen as the most appropriate site for this tower through a Radio Frequency Analysis conducted by Verizon Wireless and a Site Compliance Report conducted by SiteSafe RF compliance experts. The necessary authorizations have been provided by the Federal Communications Commission. Additional information as to the 160' tapered pole is provided by Rohn Products, LLC.

Reference was also made to the Telecommunications Act of 1996 regarding the limits a state or local agency have with regard to the siting of wireless facilities (cell towers or antennas) which are the central components of wireless telephone networks. Per our Town Attorney, Bill Kenyon the following comment was made per an email to the ZBA Secretary: "As I read the application, it is stated that the applicant proposes to erect the tower and Verizon will be the user. If the application is correct that Verizon is considered a public utility for zoning purposes, I don't believe that the fact the tower is owned by another entity and leased to the utility will make a difference in the way in which the application is considered." (In a legal memorandum LU01 from the Dept. of State Office of General Counsel the following: "In 1993, the New York Court of Appeals in **Cellular Telephone Co. vs Rosenberg** held that cellular telephone service is a public utility, and that cellular phone towers are "public utility facilities" which gives them greater protection against restrictive zoning rules than if they were deemed instead to be ordinary commercial uses of land."

Greg Hotaling, MRB Group (town engineers) representative provided a list of concerns MRB has as a result of reviewing the application presented by Crown Castle. Mr. Leja as well as Wes Weber, project manager for Crown Castle said they will address the concerns before the next scheduled meeting of the Planning Board. Some of the concerns were:

- Placement of driveway sight distances should be labeled on the site plan along with a grading plan with regard to the construction of the proposed driveway.
- The proposed above ground 1,000 gallon propane tank refueling area and parking spaces (if any) should be identified on the Site Plan. Mr. Leja mentioned they will now be using diesel fuel and these modifications will be included on the revised Site Plan.
- The plan should demonstrate that the proposed site is accessible and allow for adequate maneuverability onsite without obstruction.
- EAF should mention the equipment shed in page 1 description of work.
- Additional information should be provided demonstrating that the existing foundations and soil conditions can support the analysis reactions.

- The need for an additional balloon test to consider public places such as Stid Hill and Bristol Mountain as referenced in the SEQR documentation. The ZBA said at the meeting on the 8<sup>th</sup> they did not think this would be necessary. However, the Planning Board would like to reserve the right to reconsider this point.

Crown Castle representative Wes Webber said they will address all comments by MRB Group before the next Planning Board meeting.

It was noted a study was done by a third party SiteSafe with regard to the FAA compliance of the Tower and whether or not the tower would need to be lighted. It was determined by them the Tower does not require lighting and marking (it is less than 200' in height) and is not a hazard to air navigation. The Board asked if Mercy Flight activity had been taken into consideration. They make frequent trips to and from Bristol Mountain in the winter months in the evening hours and perhaps further study should be done regarding the lighting and marking issues.

The Board asked if they could have a copy of the generic lease agreement Crown Castle would use with a landowner. Mr. Webber said they could provide such a document specific to this application with all names and amounts removed. The final lease will be filed with Ontario County Clerk and would become public record at that point.

A question was raised when does the "shot clock" ruling go into effect. The ruling requires that the reviewing authority notify the applicant within 30 days as to whether its application is incomplete. It was determined by the ZBA Board on September 8<sup>th</sup> the application is complete. On November 18, 2009 the FCC issued a ruling requiring that a reviewing authority has 150 days from the date of application for a new tower to render a decision on the application. This application is dated August 24<sup>th</sup>, 2015 and received by the Planning and Zoning Secretary on August 25<sup>th</sup>, 2015.

The Planning Board Chair advised all that the ZBA has declared themselves Lead Agency for SEQRA review and that the Planning Board will need to hear what direction the ZBA will take with regard to Special Use Permit or Use Variance as well as the Area Variance reviewed by the ZBA before the Planning Board can make their recommendations regarding Site Plan. She also asked for Crown Castle to present the final application with all necessary corrections being addressed. Mr. Leja said the applicant would do that for the Boards. Mr. Leja asked if the Boards would consider doing a joint public hearing when addressing their issues. This has been helpful to them when working with other municipalities.

The meeting was then adjourned with a motion by Patti Giordano.  
Respectfully submitted,

*Sandra Riker*  
Secretary  
Town of Bristol Planning Board

The minutes of September 9, 2015 were approved as written with a motion by Bob Drayn and a second by Bob Raeman. All members present agreed.