

APPROVED
Town of Red Hook Planning Board
Meeting Minutes
January 24, 2011

CALL TO ORDER/ DETERMINATION OF QUORUM

The meeting was opened at 7:33 p.m., and a quorum was determined present for the conduct of business.

Members present — Chair Christine Kane, members Wil LaBossier, Sam Phelan, Pat Kelly and Kris Munn. Planner Michele Greig was also present. Charlie Laing, Sam Harkins and alternate Brian Walker were absent.

(Since Christine Kane had not yet arrived, Sam Phelan served as Chair for the first part of the meeting)

BUSINESS SESSION

Sam Phelan confirmed the agenda as published. The January 3, 2011 draft minutes had been circulated among the members and reviewed. Wil LaBossier made a motion to adopt those minutes. Pat Kelly seconded the motion, and all members present voted in favor. There were no announcements.

PUBLIC HEARING

Clearwire US, LLC – 35 Twin Towers Dr. – Site Plan

Allen Hinkley was present for the continued public hearing on an application for Site Plan approval to collocate new equipment on an existing communications tower, on a 3.072-acre parcel in the R1 Zoning District.

Sam Phelan read an e-mail from the Building Inspector confirming that panels previously installed in the #1 position on the pole by Dobson had been removed, as had been assumed in the structural integrity report reviewed previously by the Board.

The Board then discussed a report from Radio Frequency Engineer Mark Hutchins, who had reviewed Clearwire data regarding RF emissions. Sam Phelan said that Mr. Hutchins had concluded that the RF emissions from the Clearwire panels would be substantially below those allowed under the FCC guidelines. He said that Mr. Hutchins further concluded that, while Clearwire had not submitted data regarding the emissions from other carriers' panels, even if all the panels on the tower were producing RF emissions at their peak allowable limits or even if a microwave link were connecting the Clearwire panels with other company antennas in the vicinity, the cumulative emissions in "uncontrolled" areas – those areas outside the fence surrounding the tower—would be significantly lower than those allowed by the FCC. The Board confirmed that fencing and signage was already in place on the site. Michele Greig said that Mr. Hutchins was not recommending monitoring emissions at the tower site.

Michele Greig said that Mr. Hutchins was an RF engineer who had been chosen by GreenPlan and who had experience working with municipalities.

After Sam Phelan asked for public comments, Frank Green, 117 Kelly Road, asked why emissions at the tower site had not been measured. Some Board members said that they had understood that the Board had requested site monitoring at the previous meeting.

(Christine Kane entered the meeting at this point)

Ms. Greig said that typically RF calculations are reviewed first and that only if there are concerns about the data is site monitoring considered. She said that an individual carrier normally does not pay for site monitoring.

Some Board members wondered how the Town could ascertain whether the panels were functioning properly and within FCC limits if no monitoring was being done. Mr. Hinkley said that there were sensors in the panels that alerted the carriers about problems and that if a panel were operating outside its normal power output, transmission balances would be affected and all the carriers would know immediately about the malfunction. He said further that the FCC required the carriers to operate within FCC limits or their licenses would be revoked.

Mr. Hinkley went on to say that monitoring an individual site would be very difficult because radio frequency emissions come from all directions toward the tower, not just from the tower. Kris Munn said that RF emissions near the tower would most likely be coming from the tower.

Michele Greig said that Mr. Hutchins had concluded that at a distance of 15 ft. from the tower, the cumulative emissions would be less than 1% of those allowed by the FCC. Mr. Hinkley added that the Clearwire panel emissions would add .0000031 milliwatts per centimeter to the 1.0 milliwatts per centimeter total output in the uncontrolled environment.

Wil LaBossier said that the issue was not whether the Clearwire panels would be a problem but whether there was a problem at the site currently. Michele Greig asked what evidence there was that the panels were not in compliance. Kris Munn said that emissions had never been measured and that the public had complained. He said that when the Board reviewed a site plan application for part of a parcel, the entire parcel could be reviewed. Michele Greig said that testing would be expensive. Mr. Hinkley confirmed that Clearwire would not want to pay for the cost of testing since they would be only be one of many carriers on the tower.

Sam Phelan said that the basic issue was whether there was evidence that there were problems at the tower site. He said there was no way to eliminate all doubt. He said that the Board had to make decisions based on industry standards and analysis by experts. He said the consultant's report had concluded that the cumulative output of the tower was below FCC limits by a factor of 100.

Christine Kane said she believed there were two separate issues in the discussion—baseline testing at the site was one and the Clearwire site plan application was the other. She said that the Town was the owner of the tower site and that since these public concerns arise whenever tower applications were reviewed, perhaps the Planning Board should contact the Town Board about monitoring the site with testing. She agreed with Sam P. that the Hutchins report indicated that the Clearwire panel RF output would be small, so perhaps voting on this application should not be held up because of the site testing questions.

Mr. Green said that he believed that the data given to Mr. Hutchins assumed that each of the six carriers on the pole would be operating at less than one third of the maximum possible output.

Michele Greig said no, that Mr. Hutchins had assumed the “worst case scenario”—that each of the carriers would be operating at maximum output.

Mr. Green then discussed the proximity of the water tower to the panels on the telecommunications tower. He said that it was unusual to place panels at the same height as the water tower since metal objects magnify emissions. He cited an Occupational Safety & Health Administration report that stated that metal objects can create near-field “hot spots” of radiation. He said that he, his son and his neighbors had suffered a variety of ailments in the past 10 years such as memory loss and atrial fibrillation. He added that the Russian and Chinese emission standards were 100 times lower than those adopted by the FCC. Finally, he said that the Town was the regulatory agency for the safety of the tower.

Sam Phelan said that the Planning Board did not have the authority to determine a different standard of safety than that which is commonly accepted.

Mr. Green said that the Town was not looking after the tower and that the Planning Board was required to do due diligence. He said that he had called the FCC and that the FCC had no knowledge of the Red Hook tower. He said that the Town should do a risk assessment of the site.

Since there were no other comments from the public, Christine Kane made a motion to close the public hearing. Wil LaBossier seconded the motion, and all members present voted in favor.

The Board then completed part 2 of the EAF. The Board was divided on question 4. Pat Kelly voted yes, that the project likely could cause controversy about potential adverse environmental impacts. The other members voted no.

Pat Kelly noted that the RF emission questions were outside the expertise of most of the Board members. He said that questions about the cost and the legality of on-site RF monitoring could easily be answered.

Christine Kane said that after reviewing legal advice and Mr. Hutchins’ report, she understood that the Planning Board was limited in its ability to deny a carrier’s application because of RF emissions.

Kris Munn suggested that monitoring could be part of future Town/carrier lease agreements.

The Board then reviewed a draft Negative SEQR Declaration. Wil LaBossier made a motion to adopt that declaration, and Christine Kane seconded the motion. Pat Kelly voted against the motion. The other members voted in favor, and the Negative Declaration was adopted with a vote of 4 to 1.

The Board then considered a draft resolution approving the site plan. Christine Kane made a motion to adopt that resolution, and Sam Phelan seconded the motion. Pat Kelly voted against the motion. The other members voted in favor, and the resolution was adopted with a vote of 4 to 1.

(Christine Kane then took over as Chair)

REGULAR SESSION – OLD BUSINESS

Stewarts Shop – 7243 South Broadway – Amended Site Plan

Tom Lewis was present for continued discussion of an application for Amended Site Plan approval to replace gas storage tanks, lighting, a free standing sign, landscaping, drainage and other site modifications, on a + 1.44-acre lot in the B1 Zoning District.

Mr. Lewis recapped the proposed modifications to the site. He said that the parking would be reconfigured and that the applicants had upgraded the exterior lighting with LED lights so that it would meet the Town Code, although he said that the applicants were concerned that the lighting would be so low that it would be unsafe. He displayed a sample of the proposed metal roofing material. He then offered three choices for a freestanding sign to be lit with goose-neck lamps.

Michele Greig reviewed her memo on the new submissions. She said that a note on the lighting plan stated that the lighting output was portrayed as it would be after 25,000 hours of use. Town regulations require that the plan must show what the lighting levels would be at installation. She also said that the applicants must look again at the light poles near the road, since they now exceed the lighting regulations. She also reminded the applicant that all non-essential lights must be turned off after business hours. Mr. Lewis indicated that all lights would be turned off after business hours, which are 5 a.m. to midnight. Michelle Grieg said that a note should be added to the plan stating that all lights would be turned off after business hours.

The Board and Mr. Lewis then discussed the monument sign, which Mr. Lewis said would not be internally lit. He said that the gooseneck lights would be the only illumination. The Board opted for one of the submitted designs and said that applicant should reduce the size to 24 sq. ft., as required in the Town Code. The Board also asked the secretary to review our records to see if an area variance was granted to allow the sign in its current location, which is 5 ft. from the property line. Mr. Lewis said that the new sign would be located in the same place as the old sign and that there would be no building sign. The Board asked Mr. Lewis to bring in samples of the material proposed for the new sign and to bring in the correct cut sheets for the gooseneck lamps. Mr. Lewis said that he was agreeable to eliminating any shine from the sign. Michele Greig said that the light from the sign should be included in the lighting plan.

The Board then reviewed a report from the Town Engineer. Mr. Lewis said that he would comply with all of the Town Engineer's requests.

Pat Kelly made a motion to waive the site plan requirement for 2 ft. contours on the map. Wil LaBossier seconded the motion, and all members present voted in favor.

Sam Phelan made a motion to waive the site plan requirement for a drainage plan since no new impervious surfaces were being added. Wil LaBossier seconded the motion, and all members present voted in favor.

The Board and the applicant then discussed the proposed landscaping. Mr. Lewis said that since no new trees or large plantings were being proposed, there would be no sight distance problems. He said that grass could be planted around the landscaped beds.

The Board referred the project to the Dutchess County Office of Planning and Development. The members also asked the secretary to review the old site plan files to look for a drainage plan.

Mr. Lewis was asked to bring in copies of correspondence with DEC regarding the gasoline tank replacement, to bring in the correct lighting cut sheets, and to bring samples of the sign materials.

The Board then scheduled a public hearing for 7:35 pm. on February 7, 2011.

OTHER BUSINESS

Tower RF measurements

The Board generally agreed to send a letter to the Town Board asking that the Town Board provide the Planning Board with confirmation that the carriers on the Town tower are in compliance with FCC standards.

Centers and Greenspaces

Christine Kane said that the public hearing for the proposed zoning amendments had been continued to February 3. The Board members generally agreed to send a letter in support of the amendments.

Upcoming meeting schedule

Since the second meeting in February would fall on a Federal holiday, February 21, and there were no projects scheduled for that agenda, the Board generally agreed to cancel that meeting.

ADJOURNMENT

Since there was no more business to come before the Board, Kris Munn made a motion to adjourn. Wil LaBossier seconded the motion, and all members present voted in favor.

Respectfully submitted,

Paula Schoonmaker

Attachments

Negative SEQR Declaration for the Clearwire Site Plan
Resolution approving the Clearwire Site Plan

617.7

State Environmental Quality Review (SEQR)

Negative Declaration

Notice of Determination of Non-Significance

Date of Adoption: January 24, 2011

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Red Hook Planning Board, as Lead Agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Clearwire Co-location on Existing Telecommunications Tower

SEQR Status: Type I
Unlisted

Conditioned Negative Declaration: YES
NO

Description of Action: The applicant proposes to install wireless broadband antennas and related ground equipment on an existing telecommunications tower on a ± 3.072 acre parcel of land located in the RD3 Zoning District.

Location: 35 Twin Towers Road, Town of Red Hook, Dutchess County New York

Reasons Supporting This Determination:

1. The Town of Red Hook Planning Board has given due consideration to the subject action as defined in 6 NYCRR 617.2(b) and 617.3(g).
2. After reviewing the Environmental Assessment Form (EAF) for the action dated November 29, 2010, the Planning Board has concluded that environmental effects of the proposal will not exceed any of the Criteria for Determining Significance found in 6 NYCRR 617.7(c).

3. The applicant proposes to co-locate antennas on an existing telecommunications tower. The purpose of co-location is to minimize the total number of telecommunications towers in the community and thereby minimize the adverse visual effects of telecommunications towers. Shared use of existing towers is the preferred method of providing for communications services, as stated in the Town's Zoning Law. The Planning Board has determined that no significant adverse environmental impacts will result from the proposed action.

For Further Information:

Contact Person: Betty Mae Van Parys, Planning Board Clerk
Address: 7340 South Broadway
Red Hook, NY 12571
Telephone: 845-758-4613

A Copy of this Notice Filed With:

Town of Red Hook Planning Board (Lead Agency)

Resolution Granting Site Plan Approval

Name of Project: Clearwire Co-location on Existing Telecommunications Tower

Name of Applicant: Clearwire US, LLC

Date: January 24, 2011

Whereas, the Town of Red Hook Planning Board has received an application for Site Plan approval from Clearwire US, LLC to install wireless broadband antennas and related ground equipment on an existing telecommunications tower on a $\pm$ 3.072 acre parcel of land (Tax Map Parcel No. 134889-6173-00-802677-0000) located in the RD3 Zoning District at 35 Twin Towers Road, Town of Red Hook, Dutchess County, New York; and

Whereas, the Planning Board has reviewed a Site Plan prepared by Abraham Jacob Rokach, PE (Sheets T-1, C-1A, C-1 to C-6, and E-1 to E-5 dated September 29, 2010, and revised November 22, 2010 and December 9, 2010); and

Whereas, on December 6, 2010, the Planning Board declared itself lead agency for the purpose of conducting an uncoordinated review of an Unlisted action pursuant to SEQR; and

Whereas, on January 24, 2011, the Planning Board, in consideration of the Short Environmental Assessment Form (EAF) dated November 29, 2010 and the 'criteria for determining significance' set forth in 6 NYCRR Part 617.7(c) determined that the proposed action will not cause any potentially significant adverse impacts on the environment, and thus issued a Negative Declaration deeming an environmental impact statement need not be prepared; and

Whereas, on December 20, 2010, the Planning Board conducted a Public Hearing on the Site Plan application, which Public Hearing was continued on January 24, 2010, at which time all interested persons were given the opportunity to speak; and

Whereas, the Planning Board has reviewed the Site Plan against the requirements of § 143-103 and Article VII of the Zoning Law and has found the proposal complies with all applicable sections of the Zoning Law.

Now therefore be it resolved, that the Planning Board grants site plan approval to Clearwire US, LLC to install wireless broadband antennas and related ground equipment on an existing telecommunications tower located at 35 Twin Towers Road, Town of Red Hook, Dutchess County, New York in accordance with the plans and specifications heretofore submitted upon the following conditions:

- A. Submission of Site Plan drawings for stamping and signing in the number and form specified under the Town's Zoning Law, including all required P.E. and L.S. stamps and signatures.
- B. Payment to the Town of Red Hook of any outstanding fees due and owing for the review of this application.

In taking this action the Planning Board has determined there to be no new residential building lots or dwelling units created and, thus, deems not applicable to this Application requirement for set-aside of recreation or other open space land or the alternate payment of a cash-in-lieu-of-land recreation fee.

On a motion by Christine Kane, seconded by Sam Phelan, and a vote of 4 for, and 1 against, and 2 absent, this resolution was adopted on January 24, 2011.

Resolution Certified, Filed with the Town Clerk and Mailed to the Applicant

Betty Mae Van Parys, Clerk to the Board

Date