

**MINUTES OF THE JOINT ZONING AND PLANNING BOARD MEETING  
TOWN OF RICHLAND  
1 BRIDGE STREET, PULASKI, NY 13142**

**DATE:** Monday, January 18, 2021

**PLACE:** H Douglas Barclay Courthouse, Grand Jury Room

**PLANNING BOARD MEMBERS PRESENT:** Joe McGrath, Melvyn Minot, Jon Goodsell, Brian Leary, and Alternate Craig Sternberg. Absent: Ronald Novak

**ZONING BOARD MEMBERS PRESENT:** Richard Telian, Marshall Minot, Chuck Deaton, Jamie Foster, and George Harding

**OTHERS IN ATTENDANCE:** John Howland, Julie Peterson, Keith Greenwood, Sharon Zagya, Tina Zagya, Joe Harris, Aaron Walter, Brenda Walter, Mike Lasell, Tom Erwin, Douglas Barclay, Dee Dee Barclay, Attorney, Jared Lusk, Attorney Ryan McCarthy

**CALL TO ORDER:** The meeting was called to order by Marshall Minot at 6:30 p.m.

The meeting was turned over to Joe McGrath, acting chairman for the planning board. **Special Permit application #20-60 submitted by Blue Sky Towers LLC for Charles and Yvonne Gleason for the property located at 725 Co. Rt. 28 for a special permit & site plan for construction of a 185' high telecommunications tower. A motion was made by Mr. Goodsell and seconded by Mr. Leary to open the public hearing for application 20-60.** The residents who live on the neighboring properties to the cell tower object to its construction as they feel that it will decrease the values of their homes and properties. Mr. McGrath informed them that it is a special permitted use and it is allowed in that area, the board will help mitigate, but they cannot deny them the right to put the tower in that location. Jared Lusk from Nixon Peabody addressed the board regarding their concerns. He presented photos depicting the location of the tower and the visibility of it from several directions. He also explained the importance of having it there and the need for reliable cell service in the area. Reliable wireless telecommunication service is very important to the value of a property and the location meets all of the required setbacks. The tree coverage in the area is beneficial as well. Ryan McCarthy, attorney for Mr. Greenwood, presented a letter to the board addressing the specifics of the objections for the record. He is requesting if the board approves the application that they attach conditions to protect the neighboring property owners. They would like the board to mitigate the negative effects they would incur, such as hours of construction, length of time, and notice to neighbors. The tower is considered a public

utility, they are erecting the tower for use by various telecommunication companies to provide service to the area. Mr. Lusk states that the construction of the tower is a simple process and will be surrounded by an 8' fence with barb wire on the top. The area residents are unhappy that they are unable to stop the project and that they will not be compensated in any way for the impact this will have on their properties. ***A motion was made by Melvyn Minot and seconded by Brian Leary to close the public hearing at 7:15 p.m. A motion was made by Melvyn Minot and seconded by Brian Leary to approve special permit 20-60 for a 185' telecommunications tower with the additional condition of construction is only allowed from sunrise to sunset. In a roll call vote, members voted as follows: Goodsell, yes; Sternberg, yes; Leary, yes; Minot, yes; and McGrath, yes; based on the discussion, public hearing, and the view of the board, he feels that this application meets all of the requirements for a special permit for the Town of Richland, section 312. A motion was made by Mr. Leary and seconded by Melvyn Minot to approve site plan application 20-60 for a 185' high telecommunications tower. In a roll call vote, members voted as follows: Goodsell, yes; Sternberg, yes; Leary, yes; Minot, yes; and McGrath, yes; after the review of the site plan he feels it meets all of the requirements of section 503 1-10.***

**Variance and Site Plan Applications #20-69 and 20-70 that were submitted by Blue Sky towers LLC for Joseph and Paula Harris located at 4551 St. Rt. 13. Use variance application & site plan for the construction of a 180' telecommunications tower.** The planning board now must review and make a recommendation to the board of appeals so they can open their public hearing. Mr. McGrath recommends that both boards hear the presentation so both boards can make their decisions and recommendations. Jared Lusk with Blue Sky presented the boards with the information regarding their project for the telecommunications tower. The location of the tower was strategically placed to target coverage of 4.6 miles along State Rte. 3, 2.4 miles along State Rte. 13 and .6 along Co. Rt. 28 and the neighboring areas and presented visuals for the board to review. Moving the tower in any direction would decrease the target area because of the rise and terrain as the phones need to see the tower to obtain reception. Mr. Sternberg asked if it was taken into consideration to put the tower on the Town owned water tower on Bishop Rd. Mr. Lusk stated that the water tower was not in the designated search area needed to achieve maximum benefit and their policy is to consider municipal facilities first when determining location. Public utilities do not fall under the typical use variance standards as there is an established need. Marshall Minot would like to be provided with an outline stating that it can be handled differently than the typical use variance. Mr. Lusk explains that a use variance is still needed but the standards used to apply the use variance is different criteria for a public utility and that the proof that is needed is in the paperwork that was supplied to the board. Mr.

Howland sent the information to the Town attorney for review. An industrial zone, which is what is out on Co. Rt. 28 is the only place in the Town that it is allowed through a special permit. All other locations within the Township require a use variance for a public utility. Although it is a use variance, if the company can show that a tower is needed in a certain location, the Town must approve it based on the need for reliable coverage. There was much discussion determining the need, the location of the tower, and the rules and regulations regarding the use variance. A decision can't be made tonight, a public hearing recommendation can be made from the planning board to the zoning board, a public hearing can be held, but they have not received an answer from the County on the 239 yet. Mr. Minot would like something from the Town Attorney stating that it can be approved in a legal way. ***A motion was made by Melvyn Minot and seconded by Mr. Goodsell to give a favorable recommendation for Application 20-69 and 20-70 to the Zoning Board of Appeals. In a roll call vote, members voted as follows: Goodsell, yes; Sternberg, no; Leary, yes; Minot, yes; and McGrath, yes.***

Marshall Minot opened the public hearing for applications 20-69 and 20-70. There was no public comment. Mr. Minot closed the public hearing and opened it to the board for discussion. The board agrees that the need is there for this service to the public. They would like Blue Sky to provide a map to show the coverage area if the tower were to be located on the water tower. ***A motion was made by Charles Deaton and seconded by George Harding to contact the town attorney and obtain guidance in regards to the usage variance for the Verizon application.***

**Special Permit Application #21-01 submitted by David and Brenda Walter-Route 3 Recreation Inc. located at 6919-27 State Route 3 (Pines Golf Course) for the construction of a 153 unit campground, 9 hole golf course, restaurant-tavern, and 2 30 x 100 accessory use storage buildings.** Mike Lasell, engineer for the Walter's, gave the board a presentation for the project they would like to build. The plan is to eventually have campers be seasonal as opposed to transient. Mr. Sternberg supports this venue but has some concerns regarding the entrance and egress on Calkins Dr. Recently, there have been two accidents at this location within a short time frame. The DOT will be involved with this issue, however, Calkins Dr. does meet their sight distance requirements. There was a lengthy discussion reviewing the concerns, they are still evaluating other possibilities for the entrance to the campgrounds. Mr. Sternberg also addressed the storage building being a commercial structure along a scenic byway. That would require a use variance. They discussed the possibility of some spruce trees and a berm to conceal the storage units from the highway. Mr. Sternberg also expressed the wishes of the homeowner on Calkins Dr. and the location of the entrance road in relationship to his property. Mr. Lasell reviewed the type 1

SEQR application with the board. ***A motion was made by Mr. Goodsell and seconded by Melvyn Minot that the Town Planning Board intends to act as lead agent for this project. In a roll call vote, members voted as follows: Goodsell, yes; Sternberg, yes; Leary, yes; Minot, yes; and McGrath, yes. A motion was made by Mr. Goodsell and seconded by Mr. Minot to deem this application a negative declaration. In a roll call vote, members voted as follows: Goodsell, yes; Sternberg, yes; Leary, yes; Minot, yes; and McGrath, yes. A motion was made by Mr. Sternberg and seconded by Mr. Minot to deem the application complete and to schedule a public hearing for February 15, 2021. In a roll call vote, members voted as follows: Goodsell, yes; Sternberg, yes; Leary, yes; Minot, yes; and McGrath, yes. A motion was made by Mr. Sternberg and seconded by Mr. Minot to accept the Planning Board Minutes from November 16, 2020. All members were in favor, with a vote of "AYE." A motion was made to accept the Zoning Board Minutes from December 15, 2020. All members were in favor, with a vote of "AYE."***

Mr. Howland informed the board that they will be reviewing the zoning laws pertaining to solar farms and telecommunication towers. He also discussed with the board that the Town board would like them to come up with a plan regarding RV's on properties within the township. Some have roofs over them, some have tarps, and some of them are being used as a seasonal residence. There was also discussion regarding a property on Route 11 that he has issued a stop work order on twice, it is now being taken to the Supreme Court to enforce the laws we have in place.

***The meeting was adjourned at 9:45 p.m. with all members in favor.***

The next Planning Board meeting will be held on February 15, 2021 at 7 p.m.

Respectfully submitted by:  
Julie Peterson  
Clerk

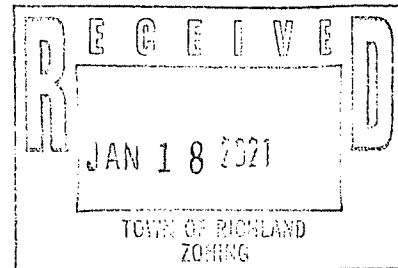
# WESTFALL

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January 18, 2021

Planning Board  
Town of Richland  
1 Bridge Street  
Pulaski, New York 13142



**RE: Objections Regarding Application #20-60**

Dear Sir/Madam:

I am the attorney for Keith Greenwood, the owner of 410 Towne Road, Pulaski, New York 13142. I write this letter in response to the December 8, 2020 letter from the Town of Richland to my client regarding the decision to notify my client that on January 18, 2021, the Town of Richland planned to hold a public hearing to discuss whether to move forward with Application #20-60 (collectively the "Application") submitted by Nixon Peabody for Charles & Yvonne Gleason, 725 County Rt. 28, Pulaski, NY for a special permit & Site plan for construction of a 185-foot-high telecommunication tower.

Further, this letter serves as the formal objection by Mr. Greenwood to the Application and a request that the Planning Board and Applicant reconsider the selection of 725 County Route 725 as the best location of this cell tower.

Simply stated, my client does not want a 185 foot high cell tower within 400 yards of his residence and a review of the Application demonstrates deficiencies in the proof supplied by the Applicant and good cause for the Planning Board to either deny or condition any approval of the Application to mitigate the costs of the Tower.

First and foremost, my client objects to Exhibit D of the Application, where the Application's response states that there is no response necessary to Richland Zoning Code §§ 312's provision that

The Planning Board may determine that additional standards should be imposed on the Special Use to provide adequate safeguards to protect the health, safety, morals, or general welfare of the public, including the effect on the environment and for the preservation of the character of the neighborhood in which such proposed special use is to be placed to minimize possible detrimental effects of the use upon adjacent property.

2. That if the Permit is approved that the Applicant demonstrate with sufficient proof that there are no other viable locations for proposed Tower and that the Applicant make reasonable assurances to the Town that the construction and installation process will not be unreasonably disruptive to Mr. Greenwood and his neighbors.

Thank you for your time and consideration.

/s/ Ryan L. McCarthy  
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Cc: Jared C. Lusk  
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