

Meeting of the Planning Board of the Town of Lewisboro held at the Town Offices at Orchard Square, 20 Cross River Plaza, Lower Level, Cross River, New York on Tuesday, August 18, 2015 at 7:30 p.m.

Present: Jerome Kerner, Chairman
Robert Goett
John O'Donnell
Ron Tetelman
Judson Siebert, Esq., Keane & Beane P.C., Planning Board Counsel
Dave Sessions, RLA, AIC, Kellard Sessions Consulting, Wetland Inspector
Joseph Cermele, PE, Kellard Sessions Consulting, Town Engineer
Jan Johannessen, AICP, Kellard Sessions Consulting, Town Planner/Wetland Consultant
Greg Monteleone, Special Counsel
Janee Waner, Planning Board Secretary
Lisa Pisera, former Planning Board Secretary

Also in Attendance: Janet Andersen, Conservation Advisory Council (CAC).

Mr. Kerner called the meeting to order at 7:30 p.m. and noted the exit.

I. PUBLIC HEARING

Cal# 11-13PB and Cal# 12-15WP

O-2 Living Realty Group, LLC (Yellow Monkey Village), 792 Route 35, Cross River, Sheet 0018, Block 10533, Lots 024 & 025 – Continuation of Public Hearing for Applications for Waiver of Site Development Plan Procedures and Wetland Activity Permit Approval for a proposed change of use and certain site modifications, all of which require site plan approval

Andrew Wynnyk, architect, was present on behalf of the applicant.

Andrew Wynnyk submitted a map illustrating NYC DEP restrictive setbacks and plans reflecting all requested changes from the July 21, 2015 Hearing.

Mr. Johannessen reviewed the resolution and confirmed that the NYC DEP was satisfied with the plan.

Mr. O'Donnell requested information about the shared parking agreement and Mr. Siebert confirmed the ZBA analysis of the shared parking to be adequate. Mr. Siebert stated the ZBA adopted a resolution approving a parking variance.

Mr. Kerner requested information concerning an issue of possible encroachment on the east side of the building and Mr. Johannessen informed the Board of the Building Inspector's determination that a variance is not required.

Ms. Anderson stated the CAC had no further comments.

There were no further comments from the Board.

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman, the Public Hearing was closed.

In favor: Mr. Kerner, Mr. Goett, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. LaSorsa

On a motion made by Mr. O'Donnell, seconded by Mr. Goett, the resolution dated August 18, granting Site Development Plan Approval and Wetland Activity Permit Plan Approval to O-2 Living Realty Group, LLC (Yellow Monkey Village), 792 Route 35, Cross River was adopted.

In favor: Mr. Kerner, Mr. Goett, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. LaSorsa

Cal# 10-10PB

New York SMSA Limited Partnership d/b/a Verizon Wireless, applicant, 377 Smith Ridge Road, South Salem, Sheet 050A, Block 09834, Lots 084, 088, and 094, (Vista Fire District, owner of record) Application for Special Use Permit Renewal and proposed modifications to existing equipment

The Chairman announced the commencement of the public hearing. There were no objections to the time, place or advertisement of the public hearing.

Jordon Fry, Esq., substituting for Michael Sheridan, Esq., both of the law office of Snyder & Snyder, represented the applicant.

Mr. Fry reviewed the project.

Mr. O'Donnell asked for confirmation about the waiver of any additional technical submission materials.

Mr. Johannessen confirmed the applicant has satisfied previous requests and the resolution addresses the waiver request.

Mr. Johannessen confirmed that there are no other open items.

On a motion made by Mr. Tetelman, seconded by Mr. O'Donnell, the Public Hearing was closed.

In favor: Mr. Kerner, Mr. Goett, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. LaSorsa

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman, the Resolution dated August 18, 2015 granting Special Use Permit Renewal to New York SMSA Limited Partnership d/b/a Verizon Wireless, 377 Smith Ridge Road, South Salem (Vista Fire District, owner of record) was adopted.

In favor: Mr. Kerner, Mr. Goett, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. LaSorsa

II. REQUEST FOR EXTENSION OF TIME

Cal# 23-14WP

New York SMSA Limited Partnership d/b/a Verizon Wireless, applicant, 117 Waccabuc Road, Goldens Bridge, Sheet 0011, Block 11137, Lots 035, and 039, Francis Coyle, owner of record, and Sheet 0011, Block 11137, Lot 052, Ashtree, owner of record – Request for extension of time to Wetland Implementation Permit dated April 28,

Jordon Fry, Esq., substituting for Michael Sheridan, Esq., both of the law office of Snyder & Snyder, represented the applicant.

Mr. Fry confirmed that all work required by Verizon Wireless has been completed. Because Verizon is a co-locator on the tower, the Verizon permit must remain open until the other parties have completed their work.

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman, an extension of time to December 15, 2015 to the Wetland Implementation Permit, Cal# 23-14WP was granted to New York SMSA Limited Partnership d/b/a Verizon Wireless, applicant, 117 Waccabuc Road, Goldens Bridge.

In favor: Mr. Kerner, Mr. Goett, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. LaSorsa

III. WETLAND VIOLATION

Cal# 2-15WV

Christopher B. Zaia, 30 Benedict Road, South Salem

Christopher Zaia, owner, was present.

Mr. Sessions provided a brief history of the violation. Mr. Sessions stated that in June 2015, the Building Department notified Kellard Sessions of a complaint they had received alleging that trees had been taken down at 30 Benedict Road, South Salem within 150 feet of the wetland. When Mr. Sessions went to the property (July 7, 2015), Mrs. Zaia informed him that the trees had been removed due to storm damage. At this time, a stop work order was issued. The owner was instructed to put up a silt fence and erosion controls, and to stabilize the area. Mr. Sessions shared photos with the Board showing the property immediately after the trees had been cleared, and photos taken earlier today (August 18, 2015) showing that the site had been stabilized.

Mr. Sessions stated that the original complaint alleged that the owner deposited material onto the adjacent neighbor's property. Neither Mr. Sessions nor Mr. Johannessen witnessed this. Mr. Zaia stated that when the trees fell, they crossed the street and into the neighbor's yard and woods. The Town cleared the debris from the street only. Mr. Zaia instructed the company removing the trees on his property to cut the large branches (in place) as well. Approximately 80% of the large logs were removed and the smaller branches were pulled to the side.

Mr. Monteleone reviewed the violation with Mr. Zaia. Mr. Zaia entered a guilty plea and signed the summons.

The applicant was instructed to submit a wetland permit application, pay the required fee, and establish an escrow account in the amount of \$2,000.

It was the consensus of the Board that the pending wetland permit application would be handled administratively by the Town Wetland Inspector.

IV. PROJECT REVIEW

Cal# 6-15PB

Sprint Spectrum Realty Company, LP, 377 Smith Ridge Road, South Salem - Sheet 050A, Block 09834, Lots 84, 88, 94, (Vista Fire Department, owner of record) – Antenna upgrade to include 6 panel antennas with 6 remote radio heads, tower-mounted amplifiers, a surge arrestor, cables and fiber; minor electrical work to existing cabinets with additional cable runs

Joe Gaon, Esq., Snyder and Snyder, represented the applicant.

Mr. Gaon reviewed the application.

Mr. Johannessen reviewed the Kellard Sessions memo dated August 11, 2015.

In response to Mr. O'Donnell Mr. Johannessen stated that the previously noted stabilization and erosion problem has been addressed and the work completed. Mr. Johannessen confirmed that an inspection would be completed prior to the September Planning Board meeting.

Mr. Johannessen was instructed to prepare a resolution for the September 29, 2015 Planning Board meeting.

It was the consensus of the Board to waive a public hearing.

Cal# 96-14WP and Cal# 21-14SW

Roger Davidson, 28 Deer Track Lane, Goldens Bridge, Sheet 0007, Block 11137, Lot 138 – Applications for Wetland Activity Permit Approval, and Stormwater Permit Approval for the construction of proposed addition consisting of new garage, bedroom and music studio

Ed Delaney, Bibbo Associates, was present on behalf of the applicant.

Mr. Delaney reviewed the project, stating that since the applicant's last appearance before the Planning Board, the applicant has decided to substantially downsize the proposed addition.

Ms. Andersen reviewed the CAC memo dated August 12, 2015, stating that the concerns of the CAC had been addressed by Mr. Delaney.

It was the consensus of the Board that the proposed action be handled administratively by the Town Wetland Inspector.

Cal# 14-15WP and 3-15SW

Brodoff, Alison and David – 1 Dogwood Lane, Pound Ridge - Sheet 0041, Block 10265, Lot 001 – Application for Wetland Activity Permit Approval and Town Stormwater Permit Approval to construct an in-ground concrete swimming pool with pool fence enclosure and pool patio

John De Feo, and Craig Studer, Studer Designs, was present on behalf of the applicants.

Mr. De Feo reviewed the project.

Mr. De Feo discussed the July 31, 2015 letter from the DEP and stated that the applicant has addressed the concerns noted in the letter.

Mr. De Feo provided a copy of the DEC permit approval, and discussed the approved wetland boundary line.

Mr. Johannessen stated that the applicant had addressed all Kellard Sessions comments. Mr. Johannessen stated that the applicant has filed the document concerning the restricted area.

Ms. Andersen stated that the CAC had no further comments.

The pool filtration system and backwash issues were discussed. The Board requested that a note be included on the plan stating that no chlorination be added to the pool two weeks prior to the drawdown of the pool.

Mr. Siebert stated that the metes and bounds submitted by the applicant are in acceptable form.

The mitigation plantings required by the prior violation were discussed. Mr. O'Donnell expressed concern regarding the failure to properly install and/or maintain these mitigation plantings.

Mr. Studer addressed the Board, stating that the penalties associated with the prior violation have been paid, and that according to the Town's files, the violation has been closed.

Ms. Andersen suggested that consideration be given to a requirement of septic inspections on a more frequent schedule than otherwise required.

It was the consensus of the Board that the proposed action be handled Administratively by the Town Wetland Inspector.

Cal# 32-15WP

Pinnetti, Stuart and Nicola – North Salem Road, Cross River, Sheet 0007C, Block 12667, Lot 001 - Stuart Pinnetti, owner of record – Application for Wetland Activity Permit Approval for construction of a new residence due to destruction of previous residence by fire

Nicola and Stuart Pinnetti were present.

Nicola Pinnetti reviewed the proposed project.

Mr. Johannessen stated that the applicant must submit an engineered site plan.

The applicant was instructed to set up a meeting, which should include the applicant's engineer, with Kellard Sessions.

The applicant was instructed to resubmit to the Board when a complete plan has been prepared.

V. REQUEST FOR EXTENSION OF TIME

Cal # 9-10PB, Cal # 84-14 WP, Cal # 14-14SW

Bacio Trattoria, 12 North Salem Road, Cross River, Sheet 0017, Block 10799, Lot 003 - K&K Real Estate Inc., owner of record – Request for Extension of Time to resolution granting Site Development Plan Approval, Wetland Activity Permit Approval and Town Stormwater Permit Approval dated February 17, 2015

Mr. Delaney was present on behalf of the applicant.

On a motion made by Mr. Tetelman, seconded by Mr. Goett, a 90-day extension of time to the resolution granting Site Development Plan Approval, Wetland Activity Permit Approval and Town Stormwater Permit Approval dated February 17, 2015 to Bacio Trattoria, 12 North Salem Road, Cross River, was granted.

In favor: Mr. Goett, Mr. Kerner, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. LaSorsa

Cal# 6-14PB and Cal# 65-14WP

Shelby White, 199 Elmwood Road, South Salem, Sheet 049C, Block 09834, Lots 62 & 80 - Request for Extension of Time to resolution granting Final Subdivision Plat Approval – Lot Line Change and Wetland Activity Permit Approval dated November 18, 2014

Neither the applicant nor a representative was present.

On a motion made by Mr. Tetelman, seconded by Mr. Goett, a 45-day extension of time to the resolution granting Final Subdivision Plat Approval – Lot Line Change and Wetland Activity Permit Approval dated November 18, 2014 to Shelby White, 199 Elmwood Road, South Salem was granted, with the condition that the applicant, or a

representative be present at the September 29, 2015 Planning Board meeting, should an additional extension be requested.

In favor: Mr. Goett, Mr. Kerner, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. LaSorsa

Cal# 50-09WP

Falcon Ridge, Waccabuc Road, Sheet 00008, Block 11137, Lot 018 - Boniello Land & Realty, owner of record – Request for extension of time to Wetland Activity Permit Approval dated September 9, 2009

Gus Boniello was present.

On a motion made by Mr. Goett, seconded by Mr. Tetelman, a 2-year extension of time to the Wetland Activity Permit Approval dated September 9, 2009 was granted.

In favor: Mr. Goett, Mr. Kerner, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. LaSorsa

In response to Ms. Andersen, Mr. Boniello stated that the trail is 90% complete, and it is expected to be completed by the end of the year.

Cal# 8-02PB

Pasquale Popoli & Angelo Sicuranza, 1437 Route 35, South Salem – Sheet 0040, Block 10552, Lot 003 - Request for extension of time to meet requirements of Amended Approval Resolution dated September 28, 2010

Jim DeLalla, architect, was present on behalf of the applicant.

Mr. DeLalla stated that the applicant is in contract to sell the property.

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman, an extension of time to December 9, 2015 was granted to Pasquale Popoli & Angelo Sicuranza, 1437 Route 35, South Salem to meet the requirements of Amended Approval Resolution dated September 28, 2010.

In favor: Mr. Goett, Mr. Kerner, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. LaSorsa

Cal# 23-14WP

VI. CORRESPONDENCE AND GENERAL BUSINESS

Ms. Andersen expressed the gratitude of the CAC to Lisa Pisera for the support she provided during her tenure.

Mr. Kerner requested that a resolution be written to reflect the Board's appreciation for the work Ms. Pisera has done while serving as Planning Board Secretary. Mr. Siebert agreed to write the resolution.

VII. MINUTES OF July 21, 2015

Mr. Goett noted that a grammatical error appears in the third paragraph on page 7 of 9 of the July 21, 2015 minutes.

On a motion made by Mr. Tetelman, seconded by Mr. O'Donnell, the minutes of July 21, 2015 were adopted, as amended by Mr. Goett.

In favor: Mr. Goett, Mr. Kerner, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. LaSorsa

VIII. ADJOURNMENT

On a motion made by Mr. Tetelman, seconded by Mr. Goett, the meeting was adjourned at 9:24p.m.

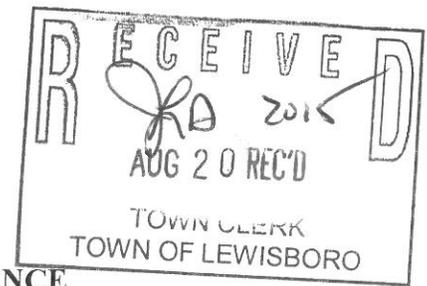
In favor: Mr. Goett, Mr. Kerner, Mr. O'Donnell, Mr. Tetelman.

Absent: Mr. LaSorsa.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Lisa M. Pisera".

Lisa M. Pisera
(acting) Planning Board Secretary



**RESOLUTION
LEWISBORO PLANNING BOARD**

**NEGATIVE DECLARATION OF SIGNIFICANCE
SPECIAL USE PERMIT APPROVAL AND RENEWAL**

TOWER FACILITY AT VISTA FIRE DEPARTMENT

NEW YORK SMSA LIMITED PARTNERSHIP D/B/A VERIZON WIRELESS

377 SMITH RIDGE ROAD

**Sheet 50A, Block 9834, Lots 84, 88, 94
Cal. #10-10PB**

August 18, 2015

WHEREAS, the subject property is owned by the Vista Fire Department, consists of ±5.95 acres of land within the R-1A Zoning District, and is identified on the Town of Lewisboro Tax Maps as Sheet 50A, Block 9834, Lots 84, 88 and 94 (“the subject property”); and

WHEREAS, on September 14, 2010, the Planning Board granted Verizon Wireless a Special Use Permit in connection with its co-location application involving the installation of a 12’ x 30’ equipment shelter, a propane generator, 12 panel antennas and other related ancillary improvements; and

WHEREAS, in accordance with the Planning Board’s approving resolution, the Special Permit issued to Verizon Wireless is valid for a period of five (5) years and expires on September 14, 2015; and

WHEREAS, in addition to requesting a five (5) year renewal, the applicant is proposing to replace the existing antennas with 12 new panel antennas and other related modifications, including the installation of Remote Radio Heads and GPS antennas; and

WHEREAS, the proposed antenna work is necessary for Verizon Wireless to be able to provide enhanced voice and data services to the area, allowing for high speed wireless data transmission; and

WHEREAS, reference is made to a memorandum of support, prepared by Leslie J. Snyder of Snyder & Snyder, LLP, dated June 19, 2015; and

WHEREAS, reference is made to a letter prepared by Michael Sheridan, Esq. of Snyder & Snyder, LLP, dated July 28, 2015, which contains responses to comments provided by the Planning Board, its consultants, and the CAC; and

WHEREAS, reference is made to a structural certification letter prepared by All-Points Technology Corporation, dated February 9, 2015, and the structural analysis report, prepared by Bennett & Pless, dated February 5, 2015, which is referenced therein; and

WHEREAS, reference is made to a certification letter prepared by All-Points Technology Corporation, dated July 28, 2015, which certifies that Verizon Wireless's existing facility on the subject property complies with prior approvals granted by the Planning Board; and

WHEREAS, reference is made to a report entitled "Antenna Site FCC RF Compliance Assessment and Report", prepared by Pinnacle Telecom Group, dated June 22, 2015; and

WHEREAS, given the nature of the application and as no significant modifications are proposed to the existing facility, the following submission requirements have been waived by the Planning Board:

- a) Verifiable list of FCC complaints (220-41.1B(7))
- b) Communication facility siting (220-41.1C)
- c) Full Environmental Assessment Form (220-41.1D(1))
- d) Service coverage maps (220-41.1D(2) and 220-41.1E(1))
- e) Long range communication facilities plan (220-41.1D(3))
- f) Documentation demonstrating that the height of the tower is the minimum necessary (220-41.1D(4))
- g) Legal description of property (220-41.1D(5)(e))
- h) Landscaping plan (220-41.1D(9) and (220-41.1E(5))
- i) Alternatives (220-41.1E(2))
- j) Provisions for additional antennas (220-41.1E(3))
- k) Setbacks (220-41.1E(4))

WHEREAS, the application was referred to the Antenna Advisory Board (AAB) and the AAB provided positive comment via an email prepared by Chairman Ted Sohonyay on July 7, 2015; and

WHEREAS, the proposed action has been determined to be an Unlisted Action, pursuant to the New York State Environmental Quality Review Act (SEQRA), 6 NYCRR Part 617.4; and

WHEREAS, the applicant submitted the Short Environmental Assessment Form (EAF), dated July 28, 2015; and

WHEREAS, the Planning Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c) and determined that the proposed action will not have a significant adverse impact on the environment; and

WHEREAS, the Planning Board has considered all reasonably related long-term, short-term, direct, indirect, and cumulative environmental effects associated with the proposed action including other simultaneous or subsequent actions; and

WHEREAS, the Planning Board conducted a duly noticed public hearing, which was opened and closed on August 18, 2015, at which time all interested parties were offered an opportunity to be heard; and

WHEREAS, in addition to the above, the Planning Board has considered the written and verbal comments from the Board's professional consultants, comments provided by the CAC, written documentation and plans submitted by the applicant in support of its application, the verbal commentary made during Planning Board meetings, and testimony of the applicant.

NOW THEREFORE BE RESOLVED THAT, the Planning Board hereby reconfirms its Negative Declaration of Significance, issued for the original collocation, dated September 14, 2010; and

BE IT FURTHER RESOLVED THAT, the proposed action meets the purpose and intent described under Section 220-41.1A of the Zoning Code, the proposed action has been designed to satisfy the regulatory compliance standards identified under Section 220-41.1B of the Zoning Code, the proposed communication facility has been designed and sited to comply with Section 220-41.1C and Section 220-41.1E of the Zoning Code, and, unless waived by the Planning Board, the applicant/facility owner has submitted the application materials required by Section 220-41.1D of the Zoning Code; and

BE IT FURTHER RESOLVED THAT, the proposed action represents a minor modification to an existing facility and the Planning Board hereby reconfirms the findings described in its September 14, 2010 Resolution; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby approves a Special Use Permit, subject to the below conditions and compliance with the Special Use Permit Conditions specified below; and

BE IT FURTHER RESOLVED THAT, the following drawing, which shall be referred to as the "Special Use Permit Plan", prepared by APT Engineering and dated (last revised) July 28, 2015, is hereby approved, subject to the below conditions and compliance with the Special Use Permit Conditions specified below:

- “Plans & Elevations” (Sheet A-1)

BE IT FURTHER RESOLVED THAT, this Special Use Permit shall be deemed to authorize only the particular Special Permit Use described herein and illustrated on the approved Special Use Permit Plan referenced herein and shall expire if work is not initiated pursuant thereto within one (1) year of this Resolution, or if said use or uses shall cease for more than one (1) year for any reason, or if all required improvements are not completed within two (2) years from the date of this Resolution, or if all such required improvements are not maintained and all conditions and standards complied with throughout the duration of the use, except that the Planning Board may, upon request, extend the above time periods as determined appropriate; and

BE IT FURTHER RESOLVED THAT, the Special Use Permit for Verizon Wireless is hereby renewed for a period of five (5) years and shall expire on September 14, 2020, subject to the following conditions; and

BE IT FURTHER RESOLVED THAT, Conditions #1 through #7 must be fulfilled within six (6) months of the date of this Resolution. Should the below-listed conditions not be completed within the allotted time frame, this Resolution shall become null and void unless an extension is requested by the applicant/facility owner (in writing) within said six (6) month period and granted by the Planning Board.

Conditions to be Satisfied Prior to the Signing of the Special Use Permit Plan by the Secretary and Chairman:

1. The applicant shall pay to the Town of Lewisboro, by certified check, all outstanding professional review fees, if any.
2. The Special Use Permit Plan shall contain a revision date with notation stating “Planning Board Approval”, shall contain an original seal and signature of the design professional and shall contain an original signature of the owner.
3. The applicant shall satisfy any outstanding written comments provided by the Planning Board’s consultants.
4. The applicant shall submit a “check set” of the Final Special Use Permit Plan (two (2) sets), prepared in final form and in accordance with the conditions of this Resolution, for review by the Planning Board’s consultants.
5. Any revisions required as a result of the consultant’s review of the Final Special Use Permit Plan shall be made. Following review and revision (if necessary), the applicant shall furnish the Planning Board with two (2) complete mylar plan sets, complete with all required original signatures, for final review by the Town Engineer and endorsement by the Town Engineer, Planning Board Secretary and Planning Board Chairman.

6. The applicant shall provide a written statement to the Planning Board Secretary acknowledging that they have read and will abide by all conditions of this Resolution.
7. The applicant shall pay to the Town of Lewisboro, by certified check, all outstanding professional review fees.

Conditions to be Satisfied Prior to the Issuance of a Building Permit:

8. Following the endorsement of the Final Special Use Permit Plan by the Town Engineer, Planning Board Chairman and Secretary, one (1) mylar set will be returned to the applicant/facility owner for copying and the second mylar set will be retained by the Planning Board as a record copy.
9. Within 10 days after endorsement of the Final Special Use Permit Plan by the Town Engineer, Planning Board Chairman and Planning Board Secretary, the applicant shall deliver to the Planning Board Secretary nine (9) printed sets of the signed plans, collated and folded.

Conditions to be Satisfied During Construction:

10. Construction-related activities shall be conducted between 8 a.m. and sunset, Monday through Saturday.
11. During construction, the Town Engineer and/or Town Planner may conduct site inspections, as necessary, to determine compliance with the provisions of this Resolution and the approved Final Special Use Permit Plan.
12. A copy of this Resolution and approved Final Special Use Permit Plan shall be kept on site at all times.

Conditions to be Satisfied Prior to the Issuance of a Certificate of Occupancy and/or Use:

13. Certification by a NYS Professional Engineer that all proposed antennas and related equipment have been installed in accordance with the approved plans.
14. The Town Engineer shall conduct a site visit to determine conformance with the approved Special Use Permit Plan.
15. The applicant/facility owner shall pay to the Town of Lewisboro, by certified or Attorney check, all outstanding professional review fees.

Special Use Permit Conditions:

16. The applicant/facility owner shall comply with the conditions specified within the Planning Board's September 14, 2010 Resolution referenced herein.

17. Unless further extended by the Planning Board, the Special Use Permit for Verizon Wireless shall expire on September 14, 2020. Any subsequent renewal application shall be subject to the same procedure, rules and regulations applicable to an original application; however, the Planning Board may waive, upon the request of the applicant/facility owner and subject to appropriate circumstances, the application submission requirements as per Section 220-41.1H(3) of the Zoning Code.

ADOPTION OF RESOLUTION

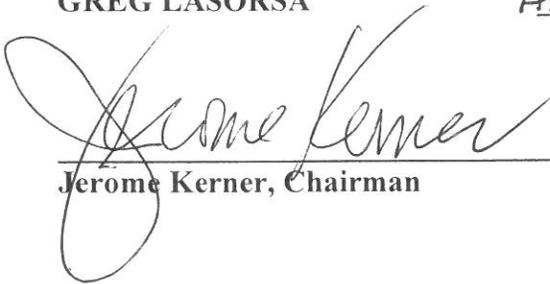
WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro as follows:

The motion was moved by: Mr. O'Donnell

The motion was seconded by: Mr. Goett

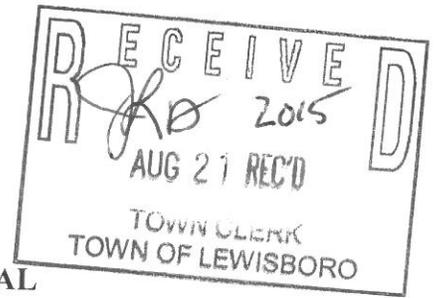
The vote was as follows:

JEROME KERNER	<u>Aye</u>
JOHN O'DONNELL	<u>Aye</u>
RON TETELMAN	<u>Aye</u>
ROBERT GOETT	<u>Aye</u>
GREG LASORSA	<u>Absent</u>



Jerome Kerner, Chairman

August 18, 2015



**RESOLUTION
LEWISBORO PLANNING BOARD
SITE DEVELOPMENT PLAN APPROVAL
WETLAND ACTIVITY PERMIT APPROVAL**

**0-2 LIVING REALTY GROUP, LLC
YELLOW MONKEY VILLAGE
792 NYS ROUTE 35**

**Sheet 18, Block 10533, Lot(s) 24 and 25
Cal. #11-13 PB and Cal. #12-15WP**

August 18, 2015

WHEREAS, the subject property is located on NYS Route 35, consists of ± 0.84 acres of land and is located within the RB Zoning District/Special Character Overlay District (“the subject property”); and

WHEREAS, the subject property, known as Yellow Monkey Village, is owned by O-2 Living Group, LLC and is developed with three (3) 2-story buildings, a common driveway and a rear gravel parking lot; and

WHEREAS, when originally approved and developed in the 1970's, Yellow Monkey Village was approved for retail use only. Over the years, a variety of uses have been conducted within the various tenant spaces and the applicant is proposing to legalize the existing non-retail related uses (“the proposed action”); and

WHEREAS, reference is made to the site plan of record entitled “Site Development Plan-Yellow Monkey Village”, prepared by Bruce Helmes, AIA, dated (last revised) July 2, 1979; and

WHEREAS, according to the applicant, the subject property is currently comprised of the following uses (where the tenant space is currently vacant, the last approved use shall govern):

Building ID No.	Location	Use	Area	Parking Requirement	Parking Spaces Required
2	Entry Level	Office/Retail	695 s.f.	1 space/200 sf	4
2	Upper Level	Office/Retail	695 s.f.	1 space/200 sf	4
3	Entry Level	Retail	274 s.f.	1 space/200 sf	2
4	Entry Level	Retail	769 s.f.	1 space/200 sf	4
4	Upper Level	Retail	769 s.f.	1 space/200 sf	4
5	Entry Level	Retail	427 s.f.	1 space/200 sf	3
5	Upper Level	Retail	427 s.f.	1 space/200 sf	3
6	Entry Level	Limited Service Carry-Out Restaurant	520 s.f.	1 space/200 sf	3
6	Upper Level	Storage	N/A	N/A	N/A
7	Entry Level	Retail	377 s.f.	1 space/200 sf	2
7	Upper Level	Yoga/Recreation	377 s.f.	1 space/200 sf	2
8	Entry Level	Retail	140 s.f.	1 space/200 sf	1
9	Entry Level	Spa/Services	480 s.f.	1 space/200 sf	3
9	Upper Level	Yoga/Recreation	480 s.f.	1 space/200 sf	3
10	Entry Level	Retail/Commissary	490 s.f.	1 space/200 sf	3
10	Upper Level	Office	490 s.f.	1 space/250 sf	2
				Total	43

WHEREAS, in addition, the proposed action includes minor paving and hardscaping improvements to achieve handicap parking accessibility and improve circulation within the parking lot; and

WHEREAS, the subject property contains a total of 32 off-street parking spaces, not including an additional 10 parking spaces provided on an adjacent parcel to the west for which a shared access and parking agreement is in effect and recorded; and

WHEREAS, the parking requirements for the above-mentioned non-retail uses are identical or less restrictive than required for retail (1 space/200 s.f.); therefore, the proposed change of use will have no impact on the number of parking spaces required/approved; and

WHEREAS, the original site plan approval contained a total of 48 "land-banked" parking spaces which are shown to be located over lands owned by the New York City Department of Protection (NYCDEP); and

WHEREAS, given the ownership, the extent of wetlands in this area, and proximity to the reservoir, it is unlikely that these spaces will ever be constructed; and

WHEREAS, the Planning Board's August 2, 1978 approving resolution required the annual renewal of a lease with the NYCDEP associated with the land-banked parking area; however, according to the applicant this was never pursued and has lapsed; and

WHEREAS, the applicant has requested that the Planning Board amend its resolution to abandon the land-banked parking area and need for a lease with the NYCDEP; and

WHEREAS, the applicant has obtained a variance from the Zoning Board of Appeals for the deficiency in parking spaces resulting from the elimination of the land-banked parking area; and

WHEREAS, off-site wetlands which are jurisdictional to the Town of Lewisboro and the New York State Department of Environmental Conservation (NYSDEC) are located immediately to the north and west of the subject property; and

WHEREAS, the off-site wetland boundary line was mapped by Evans Associates and was confirmed by the Town Wetland Consultant; and

WHEREAS, while no disturbance is proposed within the NYSDEC 100-foot Wetland Adjacent Area, minor paving and hardscaping improvements are proposed within the Town's 150-foot wetland buffer; and

WHEREAS, the subject property is located within the NYCDEP East of Hudson Watershed and is subject to the NYCDEP's Rules and Regulations; and

WHEREAS, in accordance with the NYCDEP's Rules and Regulations, the installation of an impervious surface is prohibited within 300 feet of a reservoir or reservoir stem; and

WHEREAS, it has been determined, in consultation with the NYCDEP, that the 300-foot reservoir stem setback extends onto the subject property and the installation of handicap parking spaces are proposed within the 300-foot setback; and

WHEREAS, the applicant is proposing to utilize a NYCDEP approved grass paver (Grasspave2) and a permeable subbase material which has been determined by the NYCDEP to qualify as a pervious surface; and

WHEREAS, reference is made to an email prepared by Mariyam Zachariah of the NYCDEP (addressed to Nicholas Hawvermale and Ed Delaney of Bibbo Associates), dated August 6, 2015, which states that the proposed "Garsspave2" paver is acceptable to be used within the 300-foot reservoir stem setback and will be considered a pervious surface. Further, the email states that the work proposed (as shown on Sheet W-1, prepared by Bibbo Associates, LLP, dated (last revised) August 3, 2015) is permissible without a stormwater permit from the NYCDEP; and

WHEREAS, the proposed action qualifies for a waiver of Site Development Plan Application procedures under §220-47A(1) and (2) of the Zoning Code; and

WHEREAS, a "notification referral" has been made to the Westchester County Planning Board in accordance with Section 239-m of the General Municipal Law; and

WHEREAS, the Planning Board is familiar with the subject property and the general surrounding area; and

WHEREAS, the Planning Board has considered the submitted Site Development Plan Application, materials and commentary submitted by the applicant in support of its proposal, the written and verbal comments from the Board’s professional consultants, comments from the CAC, and the verbal commentary made during Planning Board meetings; and

WHEREAS, the proposed action is a Type II Action and is categorically exempt from the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Planning Board conducted a duly noticed public hearing which was opened and closed on July 21, 2015, at which time all interested parties were afforded an opportunity to be heard.

NOW THEREFORE BE IT RESOLVED THAT, based on the information provided, the known parking demand, and the variance obtained by the applicant from the Zoning Board of Appeals, the Planning Board hereby deems the “land-banked” parking area abandoned and no longer warranted; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby approves the following drawings, which shall be referred to collectively hereafter as the “approved Site Development Plans”, subject to the below conditions:

Plans prepared by Andrew Wynnyk Architect and dated (last revised) May 7, 2015

- Site Plan (SP-1)
- Site Plan Overlay (SP-2)
- Existing Conditions (EX-1)
- Existing Conditions (EX-2)

Plans prepared by Bibbo Associates, LLP

- Aerial-Setbacks (A-1), dated March 12, 2015
- Wetland Setbacks (W-1), revised August 3, 2015

BE IT FURTHER RESOLVED THAT, Site Development Plan Approval, defined as the signing of the approved Site Development Plans by the Planning Board Chairman, shall expire unless a Building Permit is applied for within one (1) year of the date of the signing of the plans or if all required improvements are not completed within three (3) years of the signing of the plans or if the construction or use shall cease for more than one (1) year; and

BE IT FURTHER RESOLVED THAT, the Planning Board may extend conditional approval and approval of the Site Development Plans by not more than two (2) additional periods of 90 days each if, in the Planning Board’s opinion, such extension is warranted by the particular circumstances; and

BE IT FURTHER RESOLVED THAT, any subsequent alterations, modifications, additions or changes to the approved and/or constructed improvements shall require the prior review and

written approval by the Planning Board as a new, modified and/or amended application for Site Development Plan Approval; and

BE IT FURTHER RESOLVED THAT, failure to comply with the approved Site Development Plans or any of the conditions set forth herein shall be deemed a violation of Site Development Plan Approval, which may lead to the revocation of said approval or the revocation by the Building Inspector of any issued Building Permit or Certificate of Occupancy; and

BE IT FURTHER RESOLVED THAT, in comparing the magnitude of the proposed action and impacts to the wetland and wetland buffer to the extent and quality of mitigation offered by the applicant, the Planning Board has determined that the proposed action will not result in an adverse impact to off-site wetlands and watercourses; and

BE IT FURTHER RESOLVED THAT, in the granting of this Wetland Activity Permit, the Planning Board has considered/evaluated wetland and wetland buffer functions and the role of the wetland and wetland buffer areas in the hydrologic and ecological system and has determined that the impact of the proposed action upon the public health and safety; special concern, rare, threatened and endangered species; water quality and wetland and wetland buffer functions has been avoided or minimized to the maximum extent practicable. In this determination, the Planning Board has taken into account the factors listed under Section 217-8A of the Wetland and Watercourse Law; and

BE IT FURTHER RESOLVED THAT, the Planning Board has reviewed the criteria listed under Section 217-8B of the Wetland and Watercourse Law and has determined that any impacts to the affected wetland buffer are necessary and unavoidable and have been minimized to the maximum extent practicable; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby finds that the Wetland Activity Permit Application pertaining to the proposed action is consistent with the provisions and policies of Chapter 217 of the Code of the Town of Lewisboro and said permit is hereby approved, subject to the conditions set forth below; and

BE IT FURTHER RESOLVED THAT, all work associated with this Wetland Activity Permit shall be conducted in strict compliance with the approved Site Development Plans; and

BE IT FURTHER RESOLVED THAT, no work shall commence until a Wetland Activity Implementation Permit is issued by the Town Wetland Inspector; and

BE IT FURTHER RESOLVED THAT, this Wetland Activity Permit shall expire without further written notice if the requirements of this Resolution are not completed, as set forth herein. As provided pursuant to the Town Wetlands and Watercourses Law, this Wetland Activity Permit is subject to revocation should the owner/applicant not comply with the terms and conditions of this Resolution; and

BE IT FURTHER RESOLVED THAT, this Wetland Activity Permit shall expire two (2) years from the date of this Resolution, unless a Certificate of Occupancy has been obtained prior thereto; and

BE IT FURTHER RESOLVED THAT, Conditions #1 - #10 must be fulfilled within six (6) months of the date of this Resolution. Should these conditions not be satisfied within the allotted time frame, this Resolution shall become null and void unless an extension is requested by the applicant (in writing) with said 6-month period and granted by the Planning Board.

Conditions to be Satisfied Prior to the Signing of the Site Development Plans by the Secretary and Chairman:

1. The approved Site Development Plans shall be updated to reflect the pertinent information provided on a plan entitled "Wetland Setback" (Sheet W-1), prepared by Bibbo Associates, LLP, dated (last revised) August 3, 2015, to the satisfaction of the Town's professional consultants.
2. The email from the NYCDEP referenced herein shall become a note on Sheet W-1.
3. The applicant shall satisfy any outstanding written comments provided by the Town's consultants.
4. The schedule of uses provided on Sheet SP-1 shall be revised to be consistent with the table provided herein, to the satisfaction of the Town Consulting Planner.
5. Each and every sheet of the approved Site Development Plans shall contain a common revision date with notation stating "Planning Board Approval", shall contain an original seal and signature of the design professional and shall contain an original signature of the owner(s); all plans shall be clear and legible.
6. The applicant shall submit a "check set" (2 copies) of the approved Site Development Plans, prepared in final form and in accordance with the conditions of this Resolution, for review by the Planning Board's consultants.
7. Following review and revision (if necessary) of the final plans, the applicant shall furnish the Planning Board with two (2) complete mylar sets of the approved Site Development Plans for final review by the Town's consultants and endorsement by the Town Engineer, Planning Board Chairman and Secretary.
8. The applicant shall obtain a Wetland Implementation Permit, as issued by the Town Wetland Inspector.
9. The applicant shall provide a written statement to the Planning Board Secretary acknowledging that they have read and will abide by all conditions of this Resolution.

10. The applicant shall pay to the Town of Lewisboro, by certified check, all outstanding professional review fees.

Conditions to be Satisfied Prior to the Issuance of a Building Permit:

11. Following the endorsement of the approved Site Development Plans by the Town Engineer, Planning Board Chairman and Secretary, one (1) mylar set will be returned to the applicant for copying and the second mylar set will be retained by the Planning Board as a record copy.
12. Within 10 days after endorsement of the approved Site Development Plans by the Town Engineer, Planning Board Chairman and Planning Board Secretary, the applicant shall deliver to the Planning Board Secretary nine (9) printed sets of the signed plans, collated and folded.

Conditions to be Satisfied Prior to Commencement of Work:

13. Prior to commencement of any site work or construction activity, a site visit shall be conducted with the applicant, contractor, and the Town's consultants.

Conditions to be Satisfied During Construction:

14. During construction the Town's consultants may conduct site inspections, as necessary, to determine compliance with the provisions of this Resolution and the approved Site Development Plans.
15. A copy of this Resolution, approved Site Development Plans and Wetland Implementation shall be kept on site at all times during construction.

Conditions to be Satisfied Prior to the Issuance of a Certificate of Occupancy

16. Submission of an as-built survey, prepared by a NYS Licensed Land Surveyor and to the satisfaction of the Town Engineer, demonstrating compliance with the approved Site Development Plans shall be submitted to the Building Inspector and Planning Board (four (4) copies).
17. The Building Inspector and Town's consultants shall conduct a final site visit to determine conformance with the approved Site Development Plans, Wetland Implementation Permit and this Resolution. The Town Engineer shall submit a report of his findings.
18. The applicant shall obtain a Wetland Certificate of Compliance from the Town of Lewisboro Wetland Inspector.
19. The applicant shall pay to the Town of Lewisboro, by certified check, all outstanding professional review fees.

Other Conditions

20. The uses permitted on-site shall be consistent with that identified within the use table contained herein; any deviation or change in use shall require approval from the Planning Board.

ADOPTION OF RESOLUTION

WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro, as follows:

JEROME KERNER
JOHN O'DONNELL
RON TETELMAN
ROBERT GOETT
GREG LASORSA

Aye
Aye
Aye
Aye
Absent

motion was moved
by Mr. O'Donnell

The motion was
seconded by
Mr. Goett



Jerome Kerner

August 18, 2015