

**TOWN OF MILAN PLANNING BOARD MEETING MINUTES – FINAL
WEDNESDAY, FEBRUARY 4, 2009**

MEMBERS PRESENT:

Peter Goss, Chairman
Jeffrey Anagnos
Mary Ann Hoffmann
James Jeffreys
Lauren Kingman
George Lawrence

MEMBERS ABSENT:

Douglas Cook

ALSO PRESENT:

Public Hearings:

1. **AT&T** – John Furst, Attorney, appeared on behalf of the applicant for the public hearing for AT&T for site plan/special use permit approval to replace three omni antennas with six panel antennas with nine additional 1 5/8” coax cables on an existing wireless communications tower located at 616 Salisbury Turnpike, tax grid number 6471-00-372150. Chairman Goss opened the public hearing and read the legal notice that was posted in the paper and sent to neighboring landowners. There was no one from the public present for this application. Mr. Kingman said it appears that the Verizon tower is on the same parcel as this AT&T tower so the site plan will need to be updated to show where the Verizon tower and the access to the tower are located

Mr. Kingman motioned that the Milan Planning Board declare themselves lead agency for the AT&T Salisbury Turnpike submission for site plan and special use permit approval. Mr. Lawrence seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Absent	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 6-0.

Mr. Jeffreys motioned that the Milan Planning Board approve the Negative Declaration pursuant to Part 617.7 of the State Environmental Quality Review Act for the Site Plan/Special Use Permit for the AT&T Salisbury Turnpike Antenna Upgrade. Ms. Hoffmann seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Absent	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 6-0

Ms. Hoffmann motioned to close the public hearing. Mr. Lawrence seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Absent	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 6-0

Mr. Kingman motioned that the Planning Board approve the following resolution: BE IT RESOLVED, the Planning Board approves the site plan/special use permit for AT&T;

WHEREAS, a formal application for the approval of a Site Plan/Special Use Permit for an AT&T cell tower structure within lands of William J. Clarke et al was submitted to the Planning Board on November 7, 2008 for property located at 616 Salisbury Turnpike, Milan, New York, tax parcel number 6471-00-372150 located in the A5A zoning district consisting of 10.65 acres; and

WHEREAS, the proposal is indicated on a survey map prepared by Douglas W. Magde, L.S. completed on January 6, 2009 and on a set of maps entitled “Antenna System Upgrade Project AT&T” prepared by Velocitel Engineering, PLLC, consisting of sheets T1 Title Sheet, C1 General Notes, C2 Site Plan, C3 Elevation View and RF Details, C4 Civil Details, C5 Antenna/Coax Cable Schematic, E1 Grounding & RF Notes, E2 Grounding Plan, E3 Grounding Details, E4 Coax Color Code Antenna Labeling dated 11/10/08; and

WHEREAS, the proposal is for the approval of an antenna technology upgrade to a pre-existing, non-conforming 120 foot cell tower that was constructed in 1992 prior to the enactment of the Wireless Communications Facilities law in 2000; and

WHEREAS, the Planning Board reviewed the application and has found that the site improvements that are being made are not substantial consisting of replacing three omni antennas with six panel antennas and adding nine additional 1 5/8” coax cables to upgrade the existing technology; and

WHEREAS, the applicant’s representative submitted a site plan and special permit checklist which the Planning Board reviewed in conjunction with the requirements in Article VIII Special Use Permits and Article IX Site Plan;

WHEREAS, many of the site plan, special use permit, and wireless provisions do not apply since this is strictly an antenna upgrade to an existing telecommunications site; and

WHEREAS, a memo was submitted by John Morabito, Morris Associates, Town Planner, dated January 27, 2009 indicating there are no potential

significant adverse impacts related to traffic and the placement of the coaxial cables; and

WHEREAS, a memo was submitted by David Groth, R.E.S., Town RF Engineer, dated January 29, 2009 indicating this proposal is typical of cellular site upgrades; and

WHEREAS, two site visits were scheduled and cancelled due to inclement weather. Consequently, David Groth submitted a set of color photos at the January 29, 2009 Planning Board workshop depicting the site; and

WHEREAS, the applicant's representative submitted a Certificate of Insurance on 2/3/09 and a letter from Velocitel Engineering PLLC on 2/4/09 stating the antennas will not extend beyond the 120 foot height of the tower; and

WHEREAS, the Planning Board, after careful review of all the project documents and plans submitted by the applicant's representative and after comparing the impacts that could reasonably be expected to result from the action to those listed in Part 617 of 6 NYCRR of SEQRA, issued a Determination of Non-Significance for the application on February 4, 2009; and

WHEREAS, a public hearing was held on January 14, 2009 and continued on February 4, 2009 at which time no one from the public spoke in opposition to the proposal; and

WHEREAS, if any changes are made to the physical installation or characteristics to the site at any time in the future, the site must be brought into conformance with the current zoning code which requires Planning Board approval; and

WHEREAS, the property owner must make application to the Planning Board every five years for renewal of the special use permit starting in February of 2014; and

WHEREAS, in accordance with the provisions of Section 200-21, Wireless Communications Facilities, Article VIII, Special Use Permits, and Article IX, Site Plans, of the Town Code, the Planning Board may grant site plan and special use permit approval provided that it finds that the applicant conditions and standards have been met.

NOW, THEREFORE, BE IT RESOLVED, the Planning Board of the Town of Milan hereby grants Site Plan and Special Use Permit approval for the application known as AT&T Antenna System Upgrade Project subject to the following conditions:

1. Any change to the physical installation or characteristics to the site will require the site to be brought into conformance with the current zoning code which requires Planning Board approval.
2. The Special Use Permit must be renewed every five years beginning in February of 2014.
3. The site plan must be amended to include:
 - a. A signature block for the Chairman’s signature.
 - b. The location and access road of the other tower on the property.
4. Payment of all fees, including escrow, as follows:

Special Use Permit:	\$100.00
Site Plan:	\$100.00
Publication Fees:	<u>\$ 70.54</u>
	\$270.54

Mr. Jeffreys seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Absent	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 6-0.

Mr. Furst clarified that if AT&T wanted to make any changes to the site, they would have to go through this process again. Mr. Kingman said yes and if it were a significant change, there may be requirements that will not be able to be waived.

The Planning Board’s approval of a site plan or special use permit shall expire if either of the following occurs:

- (A) The site plan is not submitted for stamping and signature by the Chairperson within three calendar months (May 4, 2009) of the Planning Board’s resolution of site plan approval unless an extension of the time frame is granted by the Planning Board.
- (B) A complete application for either a building permit or certificate of occupancy is not submitted to the Building Inspector, as applicable, within six calendar months of the stamping and signing of the site plan by the Chairperson.

Mr. Kingman motioned that the Planning board approve the following resolution: **BE IT RESOLVED**, the Planning board approves the Findings for the site plan/special use permit approvals for the pre-existing, non-conforming site consisting of a wireless telecommunications facility and associated appurtenances for AT&T,

WHEREAS, the 10.65 acre site is located at 616 Salisbury Turnpike, tax parcel number 6471-00-372150, in the A5A zoning district; and

WHEREAS, the existing telecommunications facility was constructed in 1992 prior to the adoption of the Wireless Communications Facility Law as part of the Town of Milan Zoning Code; and

WHEREAS, the proposed change involves replacement of three omni antennas with six panel antennas and the addition of nine additional 1 5/8” coax cables; and

WHEREAS, there is no enlargement of the current use and no expected increase in traffic patterns; and

WHEREAS, due to the pre-existing, non-conforming nature of the site, many of the requirements in Section 200-21 Wireless Communications Facilities, Article VIII Special Use Permits, and Article IX Site Plan Review, were deemed not applicable or waived; and

WHEREAS, any change to the physical installation or characteristics of the site will require the site to be brought into conformance with the current zoning code which requires Planning Board approval; and

WHEREAS, the Special Use Permit is subject to renewal by the Planning Board every five years starting in February of 2014.

NOW, THEREFORE, the Town of Milan Planning Board approves these Findings for the Site Plan/Special Use Permit for the AT&T Antenna System Upgrade Project.

Mr. Jeffreys seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Absent	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 6-0.

On the subject of the Verizon tower that is on the same parcel, Mr. Kingman asked Mr. Groth if he had been in contact with Verizon to let them know that since they updated their antennas without coming before the Planning Board, they need to do so. Mr. Groth said the engineer from Verizon did indicate that there were changes made and Verizon is supposed to be contacting the Planning Board office.

Administrative Items:

1. Approval of Minutes: Mr. Jeffreys motioned to approve the minutes of the January 14, 2009 meeting as amended. Mr. Lawrence seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye

Douglas Cook	Absent	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 6-0.

Applications:

1. **Aiello/Steckler** – Kirk Horton, L.S., and George Steckler, applicant, were present for this lot line adjustment application for properties located on Academy Hill Road, tax grid numbers 6573-00-937299 and 6573-00-942334, in the A5A zoning district. Mr. Aiello is proposing to purchase 3.5 acres from Mr. Steckler. Mr. Aiello’s property now is 1.530 acres and this lot line adjustment will bring it to 5.030 acres which brings the lot into conformance with the current zoning. Mr. Steckler’s property is currently 9.357 acres and this lot line adjustment will bring it to 5.857 acres. The Aiello property has a dwelling on it; the Steckler property is vacant but he said he is not planning on building on it. The access would be very difficult and would involve crossing a DEC stream. Mr. Kingman said he thinks the board can schedule the public hearing for the next meeting since this proposal was reviewed at the January 29th workshop. The public hearing can be set contingent on receiving a complete application packet no later than Tuesday, February 17th, the due date for the March 4th meeting.

Mr. Lawrence motioned that the Planning Board set the date for the public hearing for the Aiello/Steckler lot line adjustment to be held at the March 4th Planning Board meeting contingent on the submittal of a complete application packet by February 17th. Mr. Anagnos seconded.

Peter Goss, Chairman	Aye	James Jeffreys	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Absent	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 6-0.

2. **Chestnut Mart:** There was no one present for the continuation of the site plan/special use permit application but an email was received from Ciro Interrante, Architect, on February 2nd which provided an update of the review. Mr. Interrante would prefer to wait until they are close to receiving preliminary approval from the DEC to before he comes back before the Board.

Mr. Kingman motioned that the Planning Board table the vote on the positive declaration for the Chestnut Mart application until the March 4, 2009 Planning Board meeting. Ms. Hoffmann seconded.

Peter Goss, Chairman	Aye
Douglas Cook	Absent
Mary Ann Hoffmann	Aye
James Jeffreys	Aye
Lauren Kingman	Aye
Motion carried 4-0	

3. **Cross Country** – In a memo dated January 20, 2009, Mark Graminski, L.S., requested the second and final three month extension for the Cross Country Development subdivision of property located on Salisbury Turnpike, tax grid numbers 6471-00-929291 and 6471-00-940375.

Mr. Jeffreys motioned that as per the letter submitted by Mark Graminski, P.E., dated January 20, 2009, the Planning Board grant the requested second and final three month extension to the Conditional Final Approval for the Cross Country Development subdivision located on Salisbury Turnpike and NYS Route 199, tax grid numbers 6471-00-929291/940375-00. This extension will expire on May 3, 2009. Ms. Hoffmann seconded.

Peter Goss, Chairman	Aye
Douglas Cook	Absent
Mary Ann Hoffmann	Aye
James Jeffreys	Aye
Lauren Kingman	Aye
Motion carried 4-0.	

Discussion/Correspondence:

- A memo was received from Pamela Richardson, Town Attorney, dated February 4, 2009 regarding review of a proposed Declaration of Common Driveway Easement and Maintenance Agreement prepared by Marya Oja in connection with her property on Fitzsimmons Road. Mr. Kingman provided some explanation to the newer Board members. Ms. Oja purchased one lot that resulted from the McFadden subdivision and wanted to change the location of the house and wanted a shared driveway going in to minimize stream crossings. The original approval was for a shared entrance but separate driveways. The property contains fairly sensitive wetlands. Ms. Oja approached the Planning Board because the filed subdivision map needs to be revised to show the new location of the house and driveway. The Town Engineer reviewed the new location and did not see any problems with it. The only concern would be the need for an ODA and maintenance agreement for the shared driveway. Since Ms. Oja's attorney preferred to use her easement document as opposed to the Town's standard agreement, they asked to have the Town Attorney provide any comments early on in the process. Paragraph

7 of the agreement states that “This Declaration shall be recorded and shall be deemed a covenant running with the lands affected hereby and shall inure to the benefit of and be binding upon the Owners until such time as the Ownership of Lot 2 changes. Thereupon, this agreement shall be null and void and a new agreement may be, but need not necessarily be, effected according to the mutual consent of the Owners of Lot 1 and Lot 2.” Ms. Richardson states in her letter that “The Declaration must provide that access to Lot 1 over Lot 2 remains binding and runs with the land until, at a minimum, the Planning Board approves an alternate access and such access is, in fact constructed, subject to any and all applicable laws, rules and regulations.” As such, the Declaration as drafted is not acceptable. Mr. Kingman said if they go forward with the common drive, the Town Board has to approve an ODA. If the next purchaser does not want a common drive and the owner of Ms. Oja’s lot agrees, they could come before the Planning Board and ask for a split but it is not guaranteed. Generally, once a shared driveway is in place, it would not be desirable to split it, and in this instance, an additional stream crossing would be involved. The Clerk will forward Pam Richardson’s comments to Marya Oja.

Ms. Hoffmann motioned to adjourn the meeting at 7:25 p.m. Chairman Goss seconded.

Peter Goss, Chairman	Aye	James Jeffrey	Aye
Jeffrey Anagnos	Aye	Lauren Kingman	Aye
Douglas Cook	Absent	George Lawrence	Aye
Mary Ann Hoffmann	Aye		

Motion carried 6-0.

The next workshop is scheduled for Thursday, February 26th and the next regular meeting is scheduled for Wednesday, March 4th.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board