

Planning Board
Public Hearing – Omnipoint
September 18, 2008

PLANNING BOARD MINUTES

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Chairman Johnston called the Public Hearing to Order.

Members present; Chairman Johnston, MaryLou Fitzgerald, Dr. Craig Russell, Mr. Dwight Anson, Mr. Ken White, Alternate, Dr. Joyce Daniels. Also present, Town of Westport Supervisor, Mr. Dan Connell. Mr. George Hainer, Building/Codes Zoning Officer. Guests in attendance, Mr. Jeff Davis, Attorney, Hiscock & Barclay, representing Omnipoint Communications, Inc. and Mr. Bruce Ware.

Chairman Johnston read the Hearing Notice (attached 1A).

Before we open the Hearing to questions or comments from the public, of the Planning Board, I'm going to ask the representative of Omni, if he would like to address us and explain the project.

Omnipoint Communications, Inc. - Tax Map No. 56.4-1-8.200 -
Application to co-locate antennas on the existing tower located at 35 Youngs Road --

Mr. Davis - My name is Jeff Davis, I'm an attorney with Hiscock & Barclay. I'm out of our Syracuse office. This is relatively a simple project, it has actually changed slightly, perhaps if you saw an email exchange that went on with the Town earlier this week. There's an existing tower at 35 Youngs Road, behind the Hilltop Motel, I-87 is here, Route 9N, I think it is and Youngs Road is coming up this way. There's an existing tower there, about like this. The guy tower, this is the Hilltop Motel, 60 feet tall, RCC which was just purchased by Verizon has antennas on there, at a center line of 56 feet. T-Mobile, Omnipoint which does business as T-Mobile is looking to provide coverage to this area, they actually have no coverage currently from Lake George all the way north, wrap around over again all the way back over to Alex Bay, so they're working on a series of sites running up the Northway, following along 87 and then up into Plattsburgh, wrapping around into Malone and then connecting over to Alex Bay. I'm lucky enough to be working on all those, so I'm out here quite a bit. This project, in particular, we're actually involved a ten foot extension on the existing 60-foot tower to put their antennas up at the top. They originally applied, if you read the packets and saw the photo sims for what was a twenty-foot extension, so another 10 feet on top of there. That was because we were told at the time that RCC's intent is they kind of had a right of first refusal, that if the tower was ever extended that they had to go to the top. We did some digging after we made the application and found out that was not the case. We changed our application, we only need to be at this level, ten feet shorter than what was proposed, we did send off information to the Town on that, so it's a ten-foot extension

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with their antennas at a centerline of 67 feet. Their antennas would be connected to equipment on the ground, this is the tower right there, these are the guy wires, their antennas would come down that tower and next to the existing guy tower, they would actually put in a fenced area and concrete pad, three equipment cabinets with a generator. The generator would be an emergency backup generator should power go out for a period of time, they also do have battery backup in their cabinets so there's kind of a transfer switch if you will, the battery backups will work for a while, if the power is out for an extended period of time the generator will come on, charge the batteries then the generator will shut off and then the batteries can operate. There's a decent generator, it's a self-contained diesel generator, there's roughly a 60-gallon tank in the generator itself, the whole bottom of the generator, so again that runs, that runs when the power is off for an extended period of time, so you can make a 911 call if you need to during power outage or any other type of call. From a coverage standpoint, I know that there were some questions raised with the previous application, so I want to make sure I go over this clearly. This is their current coverage, you can see there's "none". There would be "green" which would show in building, "yellow" which would show in vehicle, they have nothing in this area, this is I-87 coming through here, that red dot represents Exit 31 and the Hilltop Motel. They're working on sites coming up I-87 and farther north. I was in the Town of Peru, last night getting approval there to co-locate on a tower on Tarry Mountain, they have an approval to locate on a tower in the Town of Ausable, they call it the Keeseville site, which is just as you're coming south, it's just off the west on I-87 and I'm working on sites farther down here. This is kind of one in the middle that will eventually connect to some sites that are being planned and currently being reviewed by the APA by Verizon in some other Towns here, Lewis and Elizabethtown. This is what, after we, with the ten-foot extension and with the antennas there, coverage gained in this portion of the Town of Westport. It is certainly coverage for the I-87 corridor, that is one of the goals here, trying to get coverage to a major interstate in the US where they have no coverage, where most providers have no coverage during that 38 mile stretch of I-87. Green being the building, yellow being the vehicle, so coverage from Exit 31 north all the way to the border for the Town of Westport, west again all the way to the border to the Town of Westport and over into Elizabethtown slightly and again north into the Town of Lewis slightly, east, it will run along Route 9N, roughly down to, I saw this road over here and I couldn't remember what the name of it is, this road that's coming in before you get to the Hamlet (Ledge Hill Road), they will have in-vehicle coverage, basically down to that point and then, they do have coverage that comes over, and this must be Route 22, they do have coverage that will be under 22 as well, for a small section here, it will not be providing coverage to the Hamlet area, I want to make sure I say that, it's coming, it's all part of the future, I wish it was

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as simple as turning on a light switch and you could get coverage everywhere, but it's part of a process. This is the site here for now is part of what they're calling their "Phase I" build, we had to identify phases with the APA, this is part of their Phase I build along I-87 and then like I said, wrapping up over and down. They have a "Phase II" where they're hitting some of the larger population centers that are included in the Adirondack Park, Saranac Lake, Lake Placid, Tupper Lake some of the other ones, and then they have "Phase III" where they're coming back and then getting some of these smaller population centers.

Dr. Russell - May I ask you a quick question on that?

Mr. Davis - Yes.

Dr. Russell - We talking about building coverage or is this vehicle coverage?

Mr. Davis - Yes. The "green" is "in building", best way to explain it. The signals are repeated by manner, I'm sure Verizon went through all of this when they were here last time. This is 1900 MHz, which is, I don't know what Verizon said they were operating at, but there's two different frequency ranges that the FCC is billed out that you can operate in and you can have a license in 800 and 1900; 1900 is very fast. The support data can support all the stuff people are using their phones for but it doesn't travel as far, it's also impeded by matter a little bit more. The building coverage is what you would need, signal strength wise to hold a call inside of a building. It can get through the matter inside here to hold a call, if this building was located in one of these "green" areas. The in-vehicle coverage is the same thing; the signal strength level that you need, and it's really outside, to allow you to still carry a call if you're inside the vehicle because you still have the matter to get through for that vehicle, most of it is glass from the windows of the vehicle, but there is everything else. This one has to be designed for the lowest common denominator, so actually the lowest level phone that they sell, and they have to take into account the all types of losses that you get when you're operating your cell phone including, they have to take into account what side of your head people may hold the phone on. Not everybody stands knowing the fact that the antennas are over here with their phone closest to the antenna. They actually have to take into account, there's a five dd loss, if you were on the wrong side, the phone's on the wrong side of the head from where your antennas are, the signal may have to be impeded by your own body. That is how they calculate all that, the signal strength and building coverage is neg 76 ddm and in-vehicle is neg 84, negative being the lower negative numbers, neg 76 meaning it has a higher signal strength.

Mr. White - Would this be for all the phone companies?

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Mr. Davis - No, this is for T-Mobile and it is not, everybody has to operate on their own frequency, everybody has to have their own cell site to allow them to have their customers. In this area you have your FCC license provider, T-Mobile, Verizon, AT&T and Sprint, those are the four that are authorized to operate here, RCC was just purchased by Verizon so that was one that kind of went away. You basically have the four big players that you probably see advertised on TV that can operate in this area.

Mr. White - So, it would just be T-Mobile that would be getting the signal?

Mr. Davis - What I just showed you, there, yes, this would be T-Mobile.

Dr. Russell - If you have a Verizon phone, it's not going to do you any good?

Mr. Davis - If you have a Verizon phone, you're not going to pick up T-Mobile service and be able to use it on there, no. There may be, I'm not sure, there may be a roaming agreement between the two companies, but a lot of that is going away because it's just too costly to be roaming on peoples networks and customers don't like to be roaming. Verizon antennas are also at this site.

Dr. Russell - RCC, you said, was just purchased by Verizon, and they actually own the tower?

Mr. Davis - The tower is actually owned, it's owned by the landowner, by Mr. Clausen, he actually owns the tower. RCC antennas are on the tower. RCC, Rural Cellular Corporation, they were just purchased by Verizon, is not finalized yet, there going through their that they need Federal government sign-off for it. They're in the process of going through that, it will probably be finalized in a few months I would say, I don't represent either one of them, so I don't want to speak for them, they were purchased by Verizon, they're probably getting maybe even a better coverage pattern than this from that site, because they operate in 800 MHz, which can travel about twice as far as the 1900 MHz, because of a lower signal it propagates, different propagation versus the higher signal, so it is not impeded by matter in topography and hills as much as the high frequency pds
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Dr. Russell - Without you speaking for RCC or Verizon is it expected that Verizon will take over the antennas that are on there, the ones that will be below yours?

Mr. Davis - I would say, yes.

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Dr. Russell - I'm not asking you to speak -

Mr. Davis - It would seem to me, logically, this is my industry, this is what I do, they've purchased it, they've purchased RCC for a reason to get coverage in areas where they currently don't have it. Their building their I-87 coverage, I got to think this site is going to be one Verizon's sites that they use to get coverage through there.

Dr. Daniels - Why did you choose 1900 versus 800?

Mr. Davis - Wasn't a choice. The federal government, in the 1980's the federal government actually gave away the 800 MHz frequency because they wanted somebody to develop wireless telephones. Europe had it, they had it for about ten years, we didn't have it, they said this can't be, we're supposed to be the US, so they gave away the frequency ban in the 800 MHz to a few companies and said, "go build us a network". In the 1990's when everybody still had a five watt phone that they carried around and it was \$300 a month for someone to have a phone bill, they said, "this isn't what we thought it would be", so then they auctioned off frequency and the only ban that they opened up was the 1900 because every other frequency was taken up for military purposes and the 800 ban was taken up so, not everyone is created equal. Unfortunately, you have the 800 ban and you have the 1900 ban and there's big differences between the two. It's a big benefit to being in the 1900 ban, in the fact that you can actually, it's much crisper calls, if you will, and you can support a lot more information, data wise. As you get in the more populated areas where people had video on their phones, etc, all that can be supported because of the fact they are in that 1900 MHz ban, there wasn't a choice.

Dr. Daniels - Thank you.

Mr. Hainer - Actually, there was a tower before this tower up there. RCC Atlantic came in and poured new footings and erected this tower.

Mr. Davis - Correct.

Mr. Hainer - You're saying the owner owns the tower or just the land?

Mr. Davis - The owner, owns the tower, Mr. Clausen actually owns the tower itself. RCC, when they did that agreement, that's why we thought originally that they may have the right of first refusal to go to the top. There was a tower there, I think it was used for some TV purposes.

Mr. Hainer - Cable TV.

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Mr. Davis - Right, and they took down what they did, they reinforced it, they put it back up, the landowner still owns the tower, but RCC actually reserved a larger spot on the tower, it actually starts from the top here and goes down to about the 50 foot level maybe the 45 foot level, that they control in that area. If we wanted to go below their antenna, if we could, then we would have to deal with RCC, but anywhere else on the tower we had to deal with the landowner.

Mr. Hainer - Is there any possibility of someone locating above you?

Mr. Davis - Yes.

Mr. Hainer - Is the tower structurally strong enough?

Mr. Davis - This tower will be, we are going to have to put in some more guy wires, obviously we're going, they can't cantilever that much height above the existing guy wires. The existing wires are here and they currently have about 15 feet cantilevered above that, 25 feet is too much, so they are going to put in some guy wires to support that upper section that will tie into the anchors that are there. If somebody were to go higher, the beauty of a guy tower, you can pretty much do whatever you want with it. It's just how many guy wires you need to put in there. You may put in some more footers to support but that's kind of the beauty of it. We were going to go 20 feet, it was being reviewed, everything was going to be fine for us to go 20, we don't need the 20.

Mr. Hainer - So is everybody else operating in the 800 range or, you said four companies.

Mr. Davis - It gets a little confusing because they've all been combined, but Sprint 1900 MHz -

Mr. Hainer - Right.

Mr. Davis - Nextell, which is now part of Sprint, was kind of an anomaly, they had to push talk service, they were in the 800 MHz band but the federal government is actually taking it away from them, it was interfering with some military communications, so they're actually moving, I believe up to above 1900 MHz, what was Nextell but is now all one company. AT&T, PCS, 1900 MHz, Singular had both, 800 and 1900, so they kind of operate on both, Verizon always has been 800 MHz but they've been buying up frequency in the 1900 MHz band and so they kind of operate on both as well.

Mr. Hainer - Where is Unice?

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Mr. Davis - Unicef, RCC they're in 800 MHz. They're a very good fit for Verizon, because they operate pretty much very closely to one another along this level of same technology, I'm sure why that merger was happening, for acquisition. 1900 MHz ban is Sprint, T-Mobile, then you have some wireless internet companies, they don't have a license to operate up here but I do represent a few of them and they have a license to operate in Syracuse, Albany, that area, they all operate about the 1990 MHz also.

Mr. Hainer - Now Sprint, I don't know where the closest Sprint tower is but we have people that come in this building, they get call right here.

Mr. Davis - Yes.

Mr. Hainer - Why is that?

Mr. Davis - They may be roaming, they may be using roaming coverage and if you have a T-Mobile phone right now, you would be roaming on somebody else's system. Like I said, those roaming agreements are going away. They're going away because, for example you're roaming on RCC's system or Verizon's system or anybody's, as they get more and more customers they need their customers to use their system versus the people who are roaming on it. They start increasing their cost to roam and those costs get passed on to the customer and nobody wants to pay a roaming charge all the time, that's why, nobody wants that. Actually a part of this project is, T-Mobile, I don't even think they have a store, their nearest store is probably Albany, or Montreal, so, what you will probably see the development of the network and then you'll probably see a T-Mobile store open in Plattsburgh, probably another T-Mobile open somewhere between Plattsburgh and Albany where you could actually buy it, become a customer of theirs, they do have many T-Mobile subscribers that come into this area, primarily because they are huge in Montreal and they are huge in New York City. A lot of people from NYC come to this area obviously, vacation here and a lot of people travel I-87 between those two major cities. Any one of their customers, above Lake George or if the US Border above Plattsburgh they're roaming.

Chairman Johnston - Thank you very much for your presentation, Jeff. Let's get to discussion, although we've had a lot of discussion already. Dan or Bruce, either one of you have any questions or comments? How about the Planning Board, anyone, any further questions or comments?

That being the case, I think we'll take up the SEQOR review during the regular meeting, so that being the case I declare the Public Hearing closed.

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REGULAR PLANNING BOARD MEETING
SEPTEMBER 18, 2008

Chairman Johnston - Now, I would like to Call to Order the Regular Planning Board Meeting, it's approximately 7:26 P. M.

Let's start with the Minutes of the August 27, 2008 meeting, which were emailed. May I have a motion to approve the minutes. So moved, Ms. Fitzgerald, second, Mr. White, is there any discussion, questions, corrections, then all in favor to accept the minutes, minutes are accepted. (The Minutes were left off the Agenda, in error, by the Secretary).

Omnipoint Communications, Inc. - Tax Map No. 56.4-1-8.200 -

Chairman Johnston - Jeff (Mr. Davis), because it's going to take a little while to deal with your matter, we're going to need to do SEQR and the Special Permit Process, I'd like to allow the Town Supervisor, Dan Connell to address the Board, he has a couple of matters he would like to bring up.

Mr. Davis - Sure.

Supervisor Connell - The first matter is the issue of wood boilers and whether or not to regulate them. You all may be aware of what's happened. Vermont and Maine and I think Massachusetts now have passed a fairly stringent regulation on outdoor wood boilers. In New York it appears, it's going to be. In the meantime there's a lot of these boilers that are being "dumped" in New York State. Our concern as a Town is, if New York adopts the same standards, as these other states, which it appears they are going to do. One of our concerns is, and they don't grandfather these in, and we can have people with \$5,000 wood boilers, they've had them for a year or two and can't use them. Part of our reason for looking at this is to protect our own people. There's three or four thousand dollars difference in price between the ones that are being essentially outlawed and the gasified ones that are safe for the environment. Many people are not going to spend that extra money, even though from what we're reading, the payback is maybe three years and the amount of wood that you save is one concern. The other concern is, as most of you know, asthma is running rampant in this country right now and people put one of these in and the first thing you know the neighbors are having all kinds of breathing problems, going to the doctor and lot of it is being attributed to the wood burning and these outdoor boilers that are not efficient, not complete combustion. We, like every other town in New York state, practically, are looking at that. The Town Board has moved along with this process, somewhat, then we thought it really would be better to have you as a Planning Board look at this

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issue and come forward with a recommendation to the Town Board so that we have more discussion of this and we're making a decision involving more people. That's where we're at with this. George is collecting a lot of materials that he's shared with the Town Board and we can share various ordinances that various people have. Those are the basic two reasons why we're looking at it. The health reason is number one and secondly people are going to be really upset if they go out and spend four or five thousand dollars and then they're outlawed and they maybe very well not be grandfathered in. Any questions on that?

Dr. Daniels - Yes. Are you making a recommendation -

Supervisor Connell - We're asking the Planning Board to look at this issue and make a recommendation back to the Town Board whether or not we should pass a local and what that local law would look like.

Dr. Daniels - Ok, and my second part of the question is, say we pass an ordinance, who or what enforces it?

Supervisor Connell - That becomes a real issue for local government. Enforcement is a real issue. It's probably going to be something else that's going to be thrown on the code enforcement officer and that's something that we've going to really have to start looking at as a Town, because George can't do more than he's already doing. Maybe that's part of the ordinance, maybe something is designed in there that we have, someone other than the codes enforcement officer, I don't know. These are good questions and that's why we want this body to look at it. You look at it, make a recommendation to us, that gets a lot more people involved in this whole process and hopefully in the end we come out. This is going to be a very controversial thing no matter which way we go on it but it's something that we think really needs some discussion.

Dr. Daniels - Are we seeing a lot of wood boilers come to Westport all of the sudden?

Supervisor Connell - I'll let George address that.

Mr. Hainer - There's been about three that have filed for a permit the last two months. They are required to get a building permit not for the boiler, because it's a piece of equipment, but they are required to hook up into their house to their existing system. They need a permit to do that.

Dr. Daniels - Have the people in the past who put in wood boilers all received permits? So, do we know who has them and who doesn't?

Mr. Hainer - Some of them have. I've canvassed the entire Town.

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Chairman Johnston - Let's continue this discussion a little later on the agenda, and give Dan the opportunity to bring up the other reason -

Supervisor Connell - The second issue --

Mr. Maron - Is it possible for the Town Board to put a moratorium or six months to give the Planning Board a chance to come up with something, otherwise people might spend the money -

Supervisor Connell - It's possible and I don't pretend to be an expert on moratoriums. What I read in the newspaper on moratoriums and the little bit of discussion I've had with the Association of Towns, moratoriums are a lot harder to put into effect than it appears. A town board just can't sit down and say, "we're doing a moratorium on this". It may be, but again, as Bill said, you can have that discussion later if you wish to. As a Town Board, our only suggestion is, this really needs to be looked at. If we had our minds made up we would go do it, but we think it needs to be looked at, we think you folks, the planning process can give us the vehicle.

Dr. Russell - Just a quick question on what you said before. On most of these ordinances being passed in Vermont are they not grandfathering it --

Supervisor Connell - Vermont, Massachusetts and Maine, it's all state wide. The state has passed it. I think Maine, one of them I believe did not grandfather, I'm not sure but I think it was Maine. We have no idea what New York State is going to do except we know there's a ton of discussion in the State Legislature about this.

Chairman Johnston - Sometime with grandfathering, they have what's called an amortization, in other words they allow the non-complying use for limited period of time, say five years, four years, theory being that after that period of time, you've paid for it. You shouldn't be allowed to have this piece of non-complying equipment forever, once it's paid for then you have to get rid of it and when it's economic useful life has expired then it has to go.

Supervisor Connell - I don't want to keep Jeff here all night.

Mr. Anson - Have you heard anything yet when these new boilers are going to be able to come on the market?

Supervisor Connell - They're there. People are buying them at the time.

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Mr. Hainer - The classic boiler has been out for about two months, there's about eight or ten of them on EPA site that has this orange tag, they meet EPA qualifications for emissions.

Mr. Anson - They increase the price?

Mr. Hainer - Yes, they're two or three thousand more.

Dr. Russell - Are there conversion -

Mr. Hainer - I don't believe so.

Supervisor Connell - There is a significant increase in the price, but if you look at your wood usage according to the specs out there you get that back in two to three years.

Mr. Anson - I've priced boilers a year or two ago -

Supervisor Connell - You're looking at 10 to 12 for these gasification ones.

Mr. Hainer referred to a local citizen who is installing one at this time and he's right around \$12,000.

Supervisor Connell - This is not an easy decision, that's why we want to get a lot of discussion on it.

Chairman Johnston - We're going to pursue this further, a little later on the agenda. Let's let Dan address the second point.

Supervisor Connell - Ok, I think we can do this rather quickly, too. Most of you know Merriam-Forge Road, most of you know, it's on the north end, it comes off Route 22, there's a railroad track that crosses it. Comes down to the south end and connects with Sherman Road and just before you get to that bridge the bank has eroded, major problem, to the point where FEMA has actually allocated us about \$400,000 to fix it. FEMA wanted it fixed in place, their engineer's looked at it, made some suggestions, we went to the County, got a contract with the engineer that the County has on retainer, he came, said, "you really need to take some borings", we paid for the borings, all the tests we've done, all the engineers we've talked to, except the FEMA engineers, have said, "you can't fix that road where it is". The money you spend is wasted, you're never going to hold it there, so, the engineer said, "we want to move the road". Your existing road, pointing out the existing road, the suggestion is, to move into the Goldwasser/Hunter property, we have had conversations with David and Rachel for the past year. They are willing to do a land swap with us and our basic cost would be lawyer fees in this, we would just swap land for land. They would take over the old road, they would have some river-front property, we get the road off the river, we don't have to worry about it, sliding back

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in. Right now we're in the process of APA permits, apparently, this is going to be a subdivision to do this, so we're going to need Planning Board approval. Bill and I have had a number of conversations. I talked to the APA earlier in the week and I said, "this is a win-win situation for everybody". We get the road off the river, you ought like that. They said, "we don't permit roads within one-hundred feet of a river". I said, we have a road on the river, we want to move it away". I don't think it's going to be that quick a process, and we've already been a year that we haven't been able to touch the FEMA money, so we need to move it along rather quickly.

Dr. Russell - What does FEMA say that you don't agree with them?

Supervisor Connell - FEMA has said, "send us your plans when you get them, we will reconsider". We think we have FEMA on our side, plus it is going to be, according to the engineers, it's going to be cheaper to move this road then to try to fix it in place, so we've said to FEMA, "we'll save you money on this, if you let us move the road". Again, all these agencies, you never know when you're working with them what they're going to approve and not approve. I don't have an application with me tonight, I wanted to let you know about this. We were hoping that we were going to get kind of instant APA approval for this and be able to do it, that's where we're at on this, any questions on this.

Mr. White - Did FEMA say why they wanted the road fixed?

Supervisor Connell - That's the regulation, they can't pay to move a road, but they let the County move two roads, a little bit. That's what they have to tell you and then you have to make your case to move it and we've made our case with about \$20,000 worth of engineering work. The other thing this is going to do, there's a line of trees here that the Goldwasser's didn't want moved, there's a bank there that if we tried to repair this road in place, we're getting into a bank, very steep slope, we're going to cause all kinds of additional erosion to what's already there. So I think in the end this will happen, how long it's going to take, I don't know. The problem we have, if this bank continues to erode and we have to shut that road down, the only way out is across those railroad tracks. Now, I'm a newcomer to Westport, I've only been here since 1972, three times since I've been here that crossing has been blocked by trains that have derailed or had some kind of problems. If that happens now, no, if we loose this road, there's no way for those folks to get out of there, except helicopter, literally, there's a mountain and a river, you might be able to get out in a four-wheeler but you can't get out in a four-wheel drive, because there's no way to get to another road unless you're up at Goldwasser's. To me, this is a dire emergency that we're in to. Now, when we were going to replace the road in place, I got almost instantaneous approvals from the Army Corps of Engineers, APA and DEC, they all

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tentatively approved that, once they saw the plans, but now that we're moving it, we're back into total permit. I've spent the last three days trying to fill out and the APA is requiring two permits, their normal general permit and a transportation permit. So, I spent the last three days trying to get those done.

Mr. Anson - That's what is holding up that County Road in Stowersville,

Supervisor Connell - Permits.

Mr. Anson -- APA is holding up the whole thing, and this has been a year and a half or two years, just because of the subdivision, they haven't ok'd it yet, I think that is -

Supervisor Connell - Bill has a suggestion that he will address later, that's what I wanted to just show you tonight and we'll do what we need to do, but we may be coming back to you next meeting for the subdivision. The whole road is marked out, the center line is in the field, all flagged out.

Mr. Hainer - If anyone wants to look at it.

Supervisor - If anyone wants to look at it or see these plans, one set goes to the APA as soon as I have everything together, the other set will be here in the office. The entire detail for building a road is in here, it's all there, everything that any permitting agency would require is now in these plans. Questions?

Mr. Maron - Do you put a thing like this in the paper, it seems like, the bridge in Elizabethtown gets so much press. It seems if this was in the paper it might put some pressure on the APA.

Supervisor Connell - A quick story: when I tried to build the park and playground in Wadhams, the APA told me, "I couldn't build it" cause it was on a scenic river. I said, "when I have a sewer plant there and I'm going to build a park and playground next to sewer plant, you've permitted the sewer plant, so it's ok to put a sewer plant there but not a park and playground, they said, "right". So I went to the director of the APA, I called him and said, "here's what your people are telling me", does it make any sense? He responded, "I don't know". So, I said, "here's what's going to happen", I'm calling CBS and I'm going to try and get "60 Minutes" up here, it seems to me this a story they would love, a sewer plant is ok on a river, but I can't put a playground, and we had data, that intersection in Wadhams, more kids have been injured there than any other intersection in Essex County, so we're going to get the kids off a dangerous intersection, the APA is telling us "no". So that threat worked there. How many times can I use it, I don't know. Bill has some suggestions on how to go about this and I'll let him address that

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later in the meeting. One way or another we're going to get our permit, how fortunate we are in the beginning, is the question.

Chairman Johnston - Before we get back to Jeff, I'd like to discuss a very important road issue. What my suggestion was to Dan is that the Planning Board send a letter to the APA, Dan can include with the application. The Planning Board states, "this seems like a very sensible solution, we support it". If the Planning Board would go along with that, I will write the letter in the next couple of days.

Dr. Russell - Would you like a motion to do that?

Chairman Johnston - If you'd like to approve by a resolution that would be appreciated. Mr. White moves, second, Mr. Anson, no discussion, comment made, "great idea", all in favor, carried. I will draft a letter, next day or so, email it to Dan. Since I live on the road, I am concerned about being trapped and I have been observing the slippage for a number of years, also well aware of the proposed middle line, if we try to fix it in place we will have an awful mess. We will have to cut down all the trees, dig into a bank, fairly high bank, that will open it up to erosion. By hopping over the trees, you're getting the road on higher land, following the natural contour of the earth. It's a no brainer. Unfortunately, the APA doesn't know that yet, but they will know it soon.

Supervisor Connell - And the other thing, if I may, it's going to allow us to do something with that intersection where that bridge is, if you've ever been across there, you know, it's an impossible intersection and why nobody has been killed there, I don't understand, you can't make the turn. What we're going to do is realign that much as we can, obviously we can't replace the bridge, we're going to realign those roads as much as we can and we're going to pave 250 feet in each direction, so when you're on that very steep grade, where you have a stop sign, you're going to be on pavement instead of on gravel and it will allow our snow removal vehicles to get through there in the winter time, they have a heck of a time on that grade, you couldn't build a road like that today, that grade is so many degrees out of compliance but we can't get it down to heck of a time on that grade, you couldn't build a road like that today, that grade is so many degrees out of compliance but we can't get it down to compliance with the ledge and everything else that's there, so we're going to fix it as well as we can and that's all in these plans, that's another advantage to moving the road where we want to move it, we'll make that intersection much safer and much more usable.

Mr. Maron - Does the letter have to be signed by anyone else, since you're on the road.

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Chairman Johnston - I'm going to write it as Chairman of the Planning Board.

Use this address.

Supervisor Connell thanked the Planning Board.

Chairman Johnston - Let's get back to Omnipoint Communications. One of the first things we have to do before we act on this application, we need to go through the SEQR, Full Environmental Assessment Form.

Mr. Johnston referred to the revised SEQR form that was revised to reflect the fact that the tower is 70 feet not 80 feet.

Chairman Johnston - Before we do this, I'd just like to see if anyone, I want to make sure we understand that this a very minimal kind of project, granting 10 feet for the tower and another user, basically. When we go through this I don't see any reason to dwell on the additions unless someone has a specific concern they want to bring up. Let's start with -

Impact on Land - Will the proposed action result in a physical change to the project site? NO.

Mr. Hainer to Mr. Davis - Is there an equipment building going on there or are you using one that's there?

Mr. Davis - There's no building, no enclosure, there are cabinets. They're outdoor cabinets, steel outdoor cabinets, about as tall as me and twice as wide as me.

Chairman Johnston - Seems to be a difference of opinion here, Mr. White feels there will be no physical change, how do you others feel.

Dr. Daniels - No physical change.

Chairman Johnston - I guess I've been overruled.

Impact on Water - This is the category of N/A.

Dr. Daniels - Right.

Impact on Air - Same thing.

Impact on Plants and Animals - Same.

Impact on Agricultural Land Resources - Same.

Impact on Aesthetic Resources -

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Mr. Davis - One thing that I actually didn't provide you, in your packets that were sent, and I'm sure the e-mail if you looked at it, we did send some photo simulations that show you what it is -

Tape Change.

Chairman Johnston - I guess this question is really a matter of degree, very technical sense, there is an impact, the degree of the impact is so minimal, maybe you could argue and say there is an impact (aesthetic) -

Dr. Daniels - But, there's already a tower there, how does it -

Mr. Anson - There are already guy wires there.

Chairman Johnston - Impact on Historic and Archaeological Resources - Dr. Daniels -- No.

Impact on Open Space and Recreation - NA.

Impact on Critical Environmental Areas - Dr. Daniels, No.

Impact on Transportation - Impact of energy, (second bullet) No.

Noise and Odor Impacts - No.

Impact on Public Health - No. Again this is probably positive.

Ms. Fitzgerald - What about the vibration?

Dr. Daniels - Any more than the other tower that's there?

Mr. Davis - The insulation itself won't create any noise or vibration. If power is out then the generator, that would be the only thing that would be different than what is there now. Again, the battery back up is there for small power outages for anything extended, I have to imagine other folks would be running them also.

Mr. Hainer - You are right by the Northway where there is all sorts of truck traffic, etc.

Mr. Davis - The hotel owner also knows that we're proposing to put in a generator, part of our agreement. They are aware of it and I think they would have the most concern for

Dr. Daniels - They would have a generator, too.

Chairman Johnston - Is that generator going to be in a building?

Mr. Davis -- It's on the same concrete pad, enclosure, there is a fence -

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Chairman Johnston - Will that muffle the sound?

Mr. Davis - It sits right there, yes, actually a fully enclosed unit, there is a fence that we put around everything, for security, but these cabinets sit all open air, the generator is just a steel generator cabinet. There's actually a spec sheet in the packet that I gave you. Isuzu 12K Super silent, diesel generator.

Dr. Daniels - I think we should say no. If you can hear it over the Northway noise and the motel owner's generator.

Chairman Johnston - Impact on Public Health, we said non-applicable.

Impact on Growth and Character of Community or Neighborhood - No.

Chairman Johnston - Ok, this project really is not causing any impacts, so therefore, determination of significance. Upon review of the information recorded on the EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

A. (checked) The project will not result in any large and important impact (s) and, therefore, is one which **will not** have a significant impact on the environment, therefore **a negative declaration will be** .

Chairman Johnston read the three choices and checked A. as above. Therefore, we will issue a negative declaration, may I please have a motion to that affect, so moved, Dr. Russell, second, Mr. White, no discussion, all in favor. Ok, Negative Declaration

So that is done, now next. This is a special permit application, George do you have a filled out application?

Mr. Davis - I think the site plan included the application.

Chairman Johnston - the site plan is contained within the special permit.

Mr. Hainer - It's a separate use of the site, according to the definition of.

Chairman Johnston - Are we giving a special permit approval or subdivision approval?

Mr. Hainer - Subdivision approval.

Chairman Johnston - Thank you, George. George has just advised me that this is a subdivision approval because it's a separate

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use, I think therefore, a motion is in order to approve the subdivision, so moved, Dr. Daniels, second, Mr. Anson, no discussion, all in favor, carried. Am I going to sign a subdivision map, George?

Mr. Hainer - You have a designation on the existing map, you have some sort of lease with them or -

Mr. Davis - This is our lease area right here, I probably should have stopped you, I think this is a site plan review, and approval and I think when I spoke to the APA after they spoke to George, I think that's what they thought it was. We're not necessarily creating two different lots -

Mr. Hainer - No, it's not a lot but it's the way our subdivision reads, our ordinance reads, a subdivision is any division, separate use or occupancy.

Mr. Davis - Alright, the map shows that this is the area we will be using, this fenced area, I can send you a new copy of it if you would like. I think I may have a full size with me.

Chairman Johnston - I think this is one of these projects that's a little vague, murky because I thought this was a special permit application, that we were doing. It doesn't really matter because we have to have a public hearing on it, we have to do SEQR.

Mr. Davis - The only thing I would ask if, for my own purposes, if you did want to make a motion for approving the site plan, maybe doing both, the conversation I had with the APA, they're going to want to see documentation that we've gone through and obtained site plan approval from this Board.

Mr. Hainer - Site plan is part of the subdivision for us.

Chairman Johnston - Subdivision review is basically a site plan review.

Dr. Daniels - We've already approved it.

Chairman Johnston - Yes.

Dr. Russell - What's the time frame?

Mr. Davis - They want to have this built before the snow flies.

Chairman Johnston - What George can do, because I'm not going to be around, George can send a letter to the APA stating that the Planning Board approved this, approved the site plan as part of the subdivision.

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Mr. Davis - Ok. And the subdivision review as George explained,

Chairman Johnston - George's determination was that this is a separate use or occupancy therefore it was a subdivision, and we conducted a site plan review as part of the subdivision.

Mr. Davis - Excellent, I think that's fine.

Mr. Hainer - And the Planning Board, the APA will need the minutes of the Public Hearing and everything else, so it will all be part of the record.

Chairman Johnston - I think you're done, Jeff.

Mr. Davis - Thank you very much, I appreciate it.

Chairman Johnston - Our next item is **Richard & Juliann Sherman - Tax Map No. 57.4-2-26.110** - Additional information regarding Perc tests -- A lot of information was emailed to us recently, something like 36 pages, I looked it over and it's my understanding, George you may elaborate on this, that this particular subdivision is moving along and where are we now, what do we need to do?

Mr. Hainer - The subdivision was proposed to the APA, a year and a half, two years ago, they had a site, a septic area, the APA has come back, said the septic area is unsuitable, inspected the site, so for the past year they've been going back and forth with the APA trying to nail down a suitable site for the septic, they finally have. This is just an update, you had a public hearing on it before, that's where we're at. Now we're hopefully working out the last details and maybe the next two or three months it will be approved by the APA and then the Planning Board.

Chairman Johnston -- At that point we'll see, revise the subdivision plat.

Mr. Hainer - Right.

Chairman Johnston - Thanks, George. Moving on to the Outdoor Wood Boiler. What I would like to propose, I'm going to be away for three weeks, I won't be able to work on that, but, what I would like to do, in the meantime is to create a committee and I was wondering if MaryLou, you would be interested in chairing the committee.

Ms. Fitzgerald - Ok.

Chairman Johnston - What I'd like you to do is to consult with George and any Planning Board member who wants to be part of your committee, I'll let you pick your people and I'd like you to identify what the different variables are to create one of these

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laws. By variable, I mean, there's a whole list of things, like geographic area of applicability, grandfathering, setbacks from adjoining property owners, appliance with federal regulations, I'm just saying these off the top of my head. There's probably two dozen variables in the law. What I'd like you to do is identify variables for us, kind of see what the range of possibilities is with each one of these variables and if you're able to do this, be able to do a presentation at the next Planning Board meeting. What you've come up with. Would that be ok?

Ms. Fitzgerald - Yes.

Chairman Johnston - Thank you very much.

Mr. Maron - You say variables, you mean setbacks for example, unable to hear Mr. Maron.

Mr. Hainer - You have a Hamlet area.

Mr. Anson - The Town has it's own variables, right?

Chairman Johnston - Well, within the Town we have two distinct kinds of settlement areas, we have a concentrated areas, Wadhams, Westport and then we have them more spread out, rural areas, the nature of the settlement area might dictate the regulations somewhat different. I don't know, this is really kind of an information gathering.

Mr. Maron - Where do we want to look at?

Ms. Fitzgerald - Everywhere.

Chairman Johnston - That's why I called on MaryLou. Dan said they have information, George has researched this, I think if MaryLou works with George, looks at some of the other laws, I'm sure that members of her committee will be willing to help out.

Mr. Ware - There are a couple of towns that have been actively working, I believe in Essex and Keene is as well, so that might be something to check. The other thing I think is the main thing, George, is how much particulate matter they're really getting out. It's important to sort of set guidelines, but the whole idea is the difference in shift, is the old ones that they're producing put out more stuff and these newer ones, the gasification ones put out less so the federal government regulates and says this much and some of states include federal regulations. Isn't that right. That's why they can't tell those old ones -

Chairman Johnston - That is a kind of variable, Bruce, that you just brought up, that is maybe, our law should only allow ones

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that meet the federal regulations. So that is an example of a variable. Maybe we should allow the old ones, but limit them to five years. Maybe we shouldn't allow the old kind at all.

Ms. Fitzgerald - And when you're on vacation, if you get bored, you can jot down some ideas.

Chairman Johnston - Thank you.

Ms. Fitzgerald - I'll give it a try, it's a starting point.

Chairman Johnston - I think we need to get up to speed, what are the issues, if you can get the cooperation, you can get the entire Planning Board involved.

Ms. Fitzgerald - They're welcome. I'd like to just ask the Planning Board members, if you have variables and you'd like to be included, just indicate those to me.

Dr. Russell - I went to the workshop last year, when we were in Lake Placid, I'll see if I can locate all the notes that they gave us

Mr. Hainer has copies downstairs, also.

Ms. Fitzgerald - There's a possibility I won't be at the next meeting, but I will leave what I have.

Chairman Johnston - Next meeting is October 22. If we don't do it the 22nd, if you're not going to be around, MaryLou, why don't you compile what you have and you have any idea when you're leaving.

Ms. Fitzgerald - We're trying for the 15th and the 30th of October.

Chairman Johnston - I'll be back for the meeting. Maybe we can get together with George.

Mr. Maron - Several towns have acted on this, have many decided not to.

Ms. Fitzgerald - Yes. Peru backed out. Their law was defeated.

Mr. Hainer - Plattsburgh passed a moratorium on it, the Town of Plattsburgh.

Dr. Daniels - Do you know what Elizabethtown decided to do with theirs?

Mr. Hainer - They just had a public hearing.

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Chairman Johnston - It is possible too, Chris, you brought up, to have a moratorium, I've been involved in a couple situations where towns have considered enacting on a moratorium, you would have to enact a moratorium , in every case the moratorium has proven to be more controversial than the actual law. They usually don't get enacted, I don't know if that's a good idea or not. We might be able to get a local law, fairly quickly.

Mr. Hainer - One good thing, the price of oil has dropped. In the Valley News one of the oil companies is advertising \$3.69 a gallon, that's exactly a dollar more than it was a year ago. It was \$4.69 a gallon, five dollars a gallon, couple months ago. People were really looking at wood.

Chairman Johnston - MaryLou, if you want to include the idea of a moratorium, in your considerations, that's fine. If you think this is going to be more complicated than you realize, that it will take quite a while, go ahead. If everyone is happy with this solution, we'll move on -

Training Program - I hope everyone can go to the Conservation Subdivision meeting on the 24th, 7 to 9 P. M. I've heard Randal Arendt speak, he's a very good speaker, his presentations are very interesting, it would be good if you could go. George, is there any possibility, will the Town pay the mileage for this? I imagine it will, in the budget? Discussion if we could get a bus.

Other - Bruce, do you have anything for us today?

Mr. Ware - I'm just here to watch, I would say one thing though, about the outdoor boiler ordinance as you're talking about it. You might also want to consider, I've done a little bit of research on doing these things, there's also indoor boilers which maybe doesn't come into play because -

Dr. Daniels - Indoor wood boilers?

Mr. Ware - Wood gasification boilers, instead of using oil to heat your home you would use wood and you can get a boiler system like a the hot water thing. They make these gas, this is what I'm looking into for my place. The other option would be, instead of plunking this shed shape thing outside someplace, they could be putting them inside their house as an alternate system, again how much more draft you have; I would say, you might not want to limit the regulation, if you end up doing it or the law, to say only "outdoor boilers" versus "wood boilers".

Chairman Johnston - Bruce, those multi-fuel boilers have been around for a while, actually Allan Beal has one, he has an H S Harmon that he put in, in the mid 70's and this was one of the

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multi-fuel, use oil, wood, gas, I think. I tend to agree with George, because then there's the wood stove, too, that's been around for quite a while. No town locally, has gotten into regulating wood stoves.

Mr. Hainer - Then you're getting into a more restrictive standard, you're dealing with building code and residential code.

Chairman Johnston - That's a good thought -

Mr. Hainer - We can regulate your boiler though.

Chairman Johnston - Now, that would be a variable, MaryLou. The variable is, should we have special provisions for certain people like, Bruce.

Chairman Johnston - Mr. White, I think it's time for you.

Mr. White - I move we adjourn.

Chairman Johnston - Second, Mr. Anson, all in favor, carried.

Meeting adjourned at P. M.

Respectfully submitted,

Barbara A. Breyette
Secretary

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