# Town of Yates
## Joint Planning & Zoning Board Meeting
## November 3, 2022

Chairman Richard Kurz called the Meeting to order at 7:05 pm, at the Town of Yates, 8 S. Main Street, Lyndonville, NY 14098.

Those Present:
Richard Kurz, Chairman of Planning Board
Ed Urbanik, Planning Board Member
Joanne Suhr, Planning Board Member
Mark Hughes, Planning Board Member
Ralph Smith, Planning Board Member
Dawn Metty, Deputy Clerk
Jason Raduns, Code Enforcement Officer
Gary Daum, ZBA Chairman
Pat O'Brien, ZBA Member
Don Melfi, ZBA Member
Jim Taylor, ZBA Member
Mike Boring, ZBA Member
Jared Lusk (Partner w/Nixon Peabody)
Brad Bentley
Larry Wolfe

MINUTES:

Chairman Richard Kurz entertained a motion to accept the minutes from the July 7, 2022 planning board meeting.

RESOLUTION NO. 11-11/22

RESOLUTION TO ACCEPT THE MINUTES FROM THE JULY 7, 2022 MEETING AS PRESENTED TO EACH BOARD MEMBER.

RESOLVED, to accept the minutes from the July 7, 2022 meeting as presented to each Board Member.

Offered: Ed Urbanik
Seconded: Ralph Smith

Votes: 5 Ayes (Urbanik, Smith, Hughes, Suhr, Kurz); 0 Nays

Chairman Gary Daum entertained a motion to accept the minutes from the September 6, 2022 zoning board meeting.

RESOLUTION NO. 09-11/22

RESOLUTION TO ACCEPT THE MINUTES FROM THE SEPTEMBER 6, 2022 MEETINGS AS PRESENTED TO EACH BOARD MEMBER.

RESOLVED, to accept the minutes from the September 6, 2022 meeting as presented to each Board Member.

Offered: Pat O'Brien

Seconded: Don Melfi

Votes: 5 Ayes (O'Brien, Melfi, Boring, Taylor, Daum); 0 Nays

Chairman Richard Kurz requested to discuss the cell tower application first and gave the floor to Jared Lusk who is a partner with Nixon Peabody.

Jared Lusk spoke about putting up a 180' high monopole tower to provide actual coverage for Verizon to 4 surrounding towns which include Yates (which is where the tower will be located), Carlton, Ridgeway and Gaines (See packet Tab H).

Jared Lusk – The tower is going to be used to reduce the traffic on the other surrounding cell towers and for coverage. They are over loaded and need to reduce the traffic. The northeastern part of the Town of Yates is the best spot for the new tower.

Gary Daum – I live on Marshall Rd. and never have more than two bars, will that improve?

Jared Lusk – It's somewhat of a gauge and can't always rely on that. You're more likely to have more access than bars.

Pat O'Brien asked what on air coverage is.

Along the lake is difficult and with Canadian interference.

Jared Lusk showed and explained what that is and asked if there were any other questions.

Ed Urbanik – Do other service providers share the tower?

Jared Lusk – Hoping that someone else will rent the tower along with Verizon.

Jared Lusk went over the selection of property (Bentley's) and explained that other properties were inquired but there was no response from the property owners.

The site plan was discussed and reviewed (See packet Tab Q).

Ralph Smith asked if it was possible for the tower to be moved back further because of the neighbor across the street. If the tower should fall down with ice on it, it could possible fly towards them.

Jared Lusk explained it will not go that far but will check with the engineer about seeing if it's possible to move the tower back.

Brad Bentley also assured that the ice will not go that far.

Ralph Smith asked Brad Bentley if the tower will affect his farming.

Brad Bentley – No

Ralph Smith asked if they have checked with the FAA. There could be a risk for low flying planes. The Air Force flies from Fort Drum to Niagara Falls there's also Border Patrol and Mercy Flight. Lights may need to be added.

Jared Lusk – Will do that and confirm but first will find out if it's required as far as being lit up.

Jason Raduns asked if the tower on County Line Rd. is working and that people that live in that area are asking.

Jared Lusk – Will look into that.

Jason Raduns asked how do they determine the height of the tower.

Jared Lusk – It depends on the population.

The planning and zoning boards looked into the zoning book regarding height regulations as it pertains to telecommunication towers.

A motion to move forward to Jason Raduns for the determination if a height variance is needed.

RESOLUTION# 12-11/22

RESOLUTION TO MOVE FORWARD TO JASON RADUNS FOR THE DETERMINATION IF A HEIGHT VARIANCE IS NEEDED AS PRESENTED TO EACH BOARD MEMBER.

RESOLVED, to move forward to Jason Raduns for the determination if a height variance is needed as presented to each board member.

Offered by: Ed Urbanik
Seconded by: Mark Hughes

Votes: 5 Ayes (Urbanik, Hughes, Suhr, Smith, Kurz); 0 Nays

At this time the Zoning Board dismissed themselves from the meeting to the other room. After a discussion regarding the variance a motion to approve the height variance submitted by Nixon Peabody for a 185 ft. communication tower on Townline Road was made by Pat O'Brien and seconded by Melfi, all in favor. The variance is granted if needed.

Chairman Gary Daum spoke about recent training in Niagara County that included spot zoning, joint boards and short term rentals.

No further business was discussed a motion to adjourn was made by Pat O'Brien seconded by Mike Boring, all in favor.

Ed Urbanik made a motion to send the Special Use Permit submitted by Tarpon Towers on behalf of property owner Bradley Bentley for a cell tower to the County Planning Board.

RESOLUTION# 13-11/22

RESOLUTION TO SEND THE SPECIAL USE PERMIT SUBMITTED BY TARPON TOWERS ON BEHALF OF PROPERTY OWNER BRADLEY BENTLEY FOR A CELL TOWER TO THE COUNTY PLANNING BOARD AS PRESENTED TO EACH BOARD MEMBER.

RESOLVED, to send the Special Use Permit submitted by Tarpon Towers on behalf of property owner Bradley Bentley for a cell tower to the County Planning Board as presented to each Board Member.

Seconded by: Mark Hughes

Votes: 5 Ayes (Urbanik, Hughes, Suhr, Smith, Kurz); 0 Nays

Next the Planning Board discussed Allen Stauffer's special use permit application for a pond.

Chairman Richard Kurz – The biggest thing is the size of the pond. The soil cannot be moved off of the property.

Jason Raduns explained that Allen wants to build a new home and tear down the old one. The fill is needed.

Chairman Richard Kurz asked Jason what his thoughts were and if a public hearing was needed along with notifying the neighbors.

Jason Raduns – No concerns and the setbacks are good. For a pond it does not have to go to the County and does not need a special use permit only a special permit.

Chairman Richard Kurz entertained a motion to give a special permit for a pond to Allen Stauffer given that he follows the zoning regulations for ponds.
RESOLUTION# 14-11/22

RESOLUTION TO GIVE A SPECIAL PERMIT FOR A POND TO ALLEN STAUFFER GIVEN THAT HE FOLLOWS THE ZONING REGULATIONS FOR PONDS AS PRESENTED TO EACH BOARD MEMBER.

RESOLVED, to give a Special Permit for a pond to Allen Stauffer given that he follows the Zoning Regulations for ponds as presented to each Board Member.

Offered by: Ed Urbanik
Seconded by: Ralph Smith

Votes: 5 Ayes (Urbanik, Smith, Suhr, Hughes, Kurz); 0 Nays

NO FURTHER BUSINESS WAS DISCUSSED.

Chairman Richard Kurz entertained a motion to adjourn the planning board meeting.

Offered by: Mark Hughes
Seconded by: Joanne Suhr

Votes: 5 Ayes (Hughes, Suhr, Urbanik, Smith, Kurz,); 0 Nays