

MINUTES OF A MEETING AS HELD BY THE
TOWN OF AURORA PLANNING BOARD

November 1, 2023

Members Present: Doug Crow, Chairman
Jeanne Beiter
Timothy Stroth
Chris Contento
Laurie Kutina
Angela Griffis

Alternate Member: Alice Brown (voting member)

Absent/ Excused: Norm Merriman

Also Present: Liz Cassidy, Code Enforcement Officer
Chuck Snyder, Councilman
Joe McCann, Councilman
Jim Granville, Councilman
Brigid Maloney, Town Attorney

Public: Brett Morgan, David Bass, attorney for Vertical Bridge, and Steven
Matthews, PE, Tectonic Engineering on zoom
Mr. & Mrs. Harrison Kelly, Therese Campanelli

Chairman Doug Crow presided over the meeting which began at 7:00 p.m. at the Town Hall, 575 Oakwood Avenue, East Aurora, NY. He led the recitation of the Pledge of Allegiance to the Flag.

Chairman, Doug Crow addressed the following matters:

1. 196 Ellicott Road has been determined to be an ODA. The property will need variances first and then ODA along with site plan, and SUP approval.
2. Residents at 4479 Transit Rd have a house and large garage, not connected, on the property. The occupants would like to make the garage a second dwelling on the same lot. The Town Board amended the code to add additional dwelling groups as special use permits in the RR district. It was forwarded to the Zoning Board in September for some variances. Once approved, went to the Town Board on October 10th, for the SUP, which was approved.

3. Chairman, Doug Crow acknowledged Alice Brown, as voting member.
4. The next topic is the minutes from the previous meeting, September 6th. Requesting a motion to approve those minutes.

Tim Stroth made a motion to accept the minutes of the September 6, 2023, meeting. Seconded by Alice Brown. Motion carried unanimously.

PUBLIC COMMENTS: N/A

NEW BUSINESS:

- a. **Sketch Plan meeting with Brett Morgan, representative Vertical Bridge, Verizon Wireless, for telecommunication tower proposed at 4399 Transit Rd. David Bass present via Zoom. Steven Matthews PE present via zoom.**

Brett Morgan attended the meeting with updated drawings, showing relocation of tower on parcel. The relocation would place tower on parcel, meeting proper setback requirements. The location modification would put the tower 800 ft from both public rights, of way, 500 ft. from residences, and the full fall zone from existing property lines.

Working with Verizon's RF engineer we were able to reduce the tower by 20 feet. The original specs had tower at 159 ft with lightening rod. With a 15 ft tower and an antenna center line at 150 feet. We now have the tower at 139 ft with lightening rod, with tower at 135 feet and 130 feet antenna center line. We received a FFA determination at original location at 160 feet, there was no hazard. There is a need for a tower to be lit. Typically, per FFA regulations a tower over 199 feet would require lighting and or striping. There should be no concern about that with the new size and location.

Doug Crow asked, in the case of a catastrophic event, (ice/wind), would the tower remain in fall zone and stay on property?

Brett Morgan states typically a monopole tower is meant to bend at engineered bend point.

On the topic of setbacks, the town requires the front setback of 139 feet. Which is the tower height. We are currently proposed at 1109 feet from the front of Transit Road. From the side the town requires 139 feet, and we are presently at 317 feet which is the parcel to the south. The rear setback to the tower requirement is 139 feet. At the new location we are 162 feet away from the rear parcel, which is the parcel to the east. The required public ROW is 800 feet. With the revised location we would be at 874 feet. For residences required setback of 500 feet. We are presently at 504 feet.

Updated drawings are available for the board members.

Chairman Doug Crow reiterates that this is a sketch plan review. Will it come back with final site plan review or go straight to Town Board.

Liz Cassidy replies will go straight to Town Board for referral. They will have to formalize the application. One for the tower and one for the site plan. In addition to other documentation is required for code.

Brett Morgan reconfirming the way the code is written the Town Board would be issuing a SUP, a tower permit and site plan review. It is unclear how that will come into play with the Planning Board.

Chairman, Doug Crow states the Planning Board is an advisory only board that is appointed and not elected. Their position is to do preliminary reviews of information and documentation and forward recommendations to the Town Board.

Liz Cassidy reconfirms the Planning Board makes recommendations to the Town Board, after reviewing site plan and SUP. They make the decisions.

Brett Morgan stated on zoom is attorney, David Bass. Also available for questions is Steve Mathews, a professional engineer from Tectonic Engineers who put together drawings for the project. Detailed aerial drawings provided. SB-1 shows all changes for the setback plan. C-1 provides an overall site plan. C-2 site detail plan. C-3 antenna orientation.

Chairman, Doug Crow asks if tower will be 4G or 5G.

Brett Morgan states the new site will be initially built will be both 4G and 5G.

Chairman, Doug Crow asks for any questions?

Multiple members all talking at once.

Chairman, Doug Crown inquires about other tower locations.

Brett Morgan states the formal application will provide details of the sister sites. Typically, there is a capacity issue with sister sites being overloaded. Service becomes degraded.

Chairman, Doug Crow asks how long is the process after you receive approval?

Brett Morgan states following authorization it is a quick turnover of approximately 2 months. Weather permitting. The foundation is poured and requires cure time. Then the erection of the tower and initiate operation

Jeanne Beiter asks if existing towers can be updated.

Brett Morgan replies that those possibilities are explored prior to proposing new builds. Weighing all options.

Angela Griffis asks if the tower can be camouflaged.

Brett Morgan states there are no plans to camouflage towers especially in open areas. They tend to stand out more.

Chris Contento asks how much taller the tower is than trees, and structures in the surrounding area.

Brett Morgan stated they perform a study by flying a weather balloon at tower height then drive around to various locations to monitor how visible the tower is taking photos. Those are taken back to the office and recreated in what are called photo simulations. That shows how it looks from various vantage points. Also, as part of the SEQRA review, we will perform an visual assessment study which is a map that will show us where in town will be visible in the area. It will also tell how many people will drive by it annually. The network can be affected by “clutter”. Pertaining to leaves on trees, thus reception is better when trees are empty, or signal is higher than trees.

Multiple people talking

Angela Griffis asks about the concerns of neighbors.

Brett Morgan states as part of NEPA review, some negative comments did come back.

Laurie Kutina reconfirmed tower is not going to be lit.

Brett Morgan replied, no. However, there will be lights around the building on timers and when technicians are there.

Chairman, Doug Crow asked if it is Unlisted action or Type 1.

Liz Cassidy confirmed it is an Unlisted action.

Brett Morgan stated it is in an agricultural zone.

Tim Stroth asked if letters have been sent out to neighboring residents.

Chairman, Doug Crow states would not be necessary until site plan done and town schedules public hearing.

Laurie Kutina asks if they are communicating with Orchard Park?

Liz Cassidy responds that Orchard Park will be notified through SEQRA and by public hearing.

Multiple people talking.

Chairman, Doug Crow asks for any need of further discussion or questions.

No responses.

Chairman, Doug Crow thanks Brett Morgan for his time and presentation of sketch plan.
Topic of discussion concluded.

- b. Referral from Town Board for V/L Olean RD, SBL: 176.-4-25.1, rezoning request. The Town Board is asking for recommendations/ considerations.**
- i.** Is this rezoning request consistent with the unadopted comprehensive plan and existing neighborhood?
 - ii.** Rezone entire lot to C2
 - iii.** Rezone to C2 with the condition to place the 4-acre buffer area in a conservation easement.
 - iv.** Rezone to C2 and leave buffer as RR/A, with/without restrictions.
 - v.** Rezone to C2 with no restrictions and use the SUP process to add restrictions.
 - vi.** The proposed buffer is approx. 4 acres, considering the lot and neighboring properties, is it sufficient and should be more clearly defined.

Chairman, Doug Crown invited Harrison Kelly to come forward and started with an introduction that this topic has gone in front of Town Board which held a public hearing to receive feedback from neighbors. In a separate meeting they had a discussion covering many different topics came up. We have a couple of Town Board members here so we can query them with their thoughts. The decision was whether to take the recommendation we previously gave them, wanted some kick back for some consideration of some other topics that came up through their discussions. They are looking for ideas to consider.

Harrison Kelly states with the uncertainty of process, that any of his questions will be asked respectfully. The standing petition is for the 10-acre parcel with no plans for the 4-acre buffer. He states he feels there is more discussion on the 4 acres, not the 10 acres. Their petition is for the 10-acre parcel. They currently have no plans for 4 acres. From the design standpoint they thought it was a good way to create space for the residents to the south of the property. He has read through the comprehensive site plan. His belief is the proposed project sits in the middle of the commercial zone, on Olean Road. One question Mr. Kelly had been as he was reading through the proposed zoning code, one of the accepted uses of agricultural property is golf link, code 116-8.5 B7. There is no explanation of what a golf link is. We are proposing a miniature golf course.

Chairman, Doug Crow established that even if that was what was being proposed, the first 300 feet is a different code. Later that residential was added as an overlay. Requested comprehension from Mr. Kelly.

Harrison Kelly understands the differences. Tim Stroth asks what exactly the definition of golf links is.

Liz Cassidy responds golf links are an old style of golf course developed in Scotland. They are generally built on sandy surfaces.

Chairman, Doug Crow asks to clarify the site plan frontage.

Greg Schneider from Aurora Architectural joins Mr. Kelly.

Greg Schneider states the 900 feet frontage is in three segments. The first at the north end is 530.6 feet. The center segment is 206 feet, and the south end segment is 97 feet. They would divide the center segment in half and add that 104 feet to the south segment 97 feet giving frontage of 201.6 feet frontage as RR/Agriculture.

Chairman, Doug Crow had a pending question regarding whether that remaining south segment would be a buildable lot. 125 feet frontage is required for buildable lot.

Greg Schneider acknowledged that parcel would still be of value. That was the goal. The divide line happened to fall in a wet land, drainage area.

Multiple people talking.

Laurie Kutina inquires if the purpose of dividing the parcel is to establish a different zoning category or for creating a second parcel.

Harrison Kelly states their original intentions were not to separate the parcel. At the first meeting they were told to have 3 zoning codes on one property was not unheard of.

Chairman, Doug Crow states not ideal.

Harrison Kelly feels it makes more sense to zone the entire parcel C2. Presently still has no plans for the 4-acre area.

Chairman, Doug Crow states does not want to get too deep into this. Just was looking to lay the stage to Mr. Kelly's thoughts.

Request any thoughts from Chuck Snyder, Jim Granville or Joe McCann, present councilmen.

Councilman, Chuck Snyder states the next step would be to ask our town attorney to write up a new local law. Something may be in that local law such as, a permanent easement, or rezone to C2 in its entirety with 4 acres split off as conservation easement. Or it may say rezone C2 with the 4-acre buffer to give neighbors reassurance that 4-acre parcel will remain a buffer.

Laurie Kutina asks how West Herr lot was handled.

Chairman, Doug Crow states through previous changes there was no zoning changes. A lot of work was done regarding water elevations. It was up against wetlands with regular flooding. The work eliminated roadway flooding. There was much discussion about plantings to obscure the view of the open parking lot.

Laurie Kutina expressed her opinion to not divide parcel.

Chairman, Doug Crow states that is consistent with Mill Road development, where they did the cluster development. It was a huge HOA thing, but they didn't use 2/3 of the land. It was protected so they could not build anymore lots.

Angela Griffis asks if the 4-acre wetland is part of the DEC inventory.

Multiple people talking.

Harrison Kelly reiterates again there is no plan to do anything with 4 acres and that it compliments what they are trying to put on this property. It's more of a feature.

Councilman, Joe McCann feels the need to rezone by itself regardless of the proposed plan. Once rezoned what it will affect if the project does not go through. Not wanting the decision to be solely based on this project.

Chairman, Doug Crow states if parcel not split it may give Town and Planning Board more flexibility for restrictions to the lot when a specific SUP and site plan are done and laid out. That would be more difficult if the parcel were to be split.

Chris Contento asks what the worst scenario is if zoned C2 and this project falls through. What are the alternatives that can be built there.

Chairman, Doug Crow states C2 is comprehensive. A lot could go there but would require site plans and SUP for larger structures. Not allowed would be heavy industrial as in our C3 zones.

Liz Cassidy addressed Chris Contento regarding allowable C2 by SUP are construction trade, commercial amusement establishment, automotive filling stations, storage yards.

Chris Contento states the alternative could be a Tim Horton and filling station as opposed to a family golf center. Does it make sense?

Laurie Kutina replies that wouldn't happen. However, it is a difficult site. There are a lot of unbuildable sites due to our terrain. On a hill which a lot of water comes from. In this use, will absorb the water, being a good thing. When discussing that stretch of Olean which is commercial there are still several residences.

Chairman, Doug Crow confirms. That north of and across the street is zoned C2 on both sides of the road. On that stretch of road south of the village is primarily commercial.

Chris Contento asks regarding the buffer, what its plans for neighboring residence? Is it to protect them?

Chairman, Doug Crow states he attended some training for the association of the towns. They talked about comprehensive plans they recommend that they no be specific how land is used. It should be general areas. It should not be put on a map to identify where that area stops. Where zone stops should be determined with individual zoning decisions based on comprehensive plans. Either initially or at a later date. They do not recommend comprehensive plans. Specific areas should be designated as commercial.

Multiple people talking.

Public resident, Therese Campanelli from 258 Olean Rd. address planning board with questions regarding rezoning consideration. It concerns her how much of this consideration is going to the proposed project. She understands that area is deemed a commercial area. As a resident of that area, her home, and residents around her may not be right next to that property but are certainly affected by what goes into that property and how it is zoned. This is someone's neighborhood. That whatever goes there should complement the neighborhood. Much concern about the amount of traffic coming from the 400 and down Olean to reach the facility. She feels will affect her quality of life.

Chairman, Doug Crow acknowledged the resident's property is just north in village.

Tim Stroth asks Mr. Kelly, in his business plan, if they did a projection of what to expect with full build out the turnover rate of customers coming in and out on to a state road.

Harrison Kelly states he believes that it is a relatively small number. But to answer the question directly, no. We have not done that. Have been waiting to see the direction the project is taking. Trying to save money on activities until they know it makes sense. Unsure how that works.

Chairman, Doug Crow states you want to have your site plan first.

Harrison Kelly stated regardless of which activity, indoor or outdoor, it will take at least 1 hour to complete. The turnover would not be excessive.

Tim Stroth asks Councilman, Chuck Snyder do we have NY DOT traffic counts for any of the state highways.

Councilman, Chuck Snyder states we do not currently. The board presently asks for a zoning decision regardless of what the project it is. It may not even be this. Just consider the zoning for the property. In answer to Tims question, through the SUP and site plan process, there will be a traffic study.

Chairman, Doug Crow addresses board questioning, is rezoning this lot or a portion of this lot consistent with the unadopted comprehensive plan?

All members agree unanimously.

Chairman, Doug Crow asks board are they in favor of rezoning the whole lot or just a portion of the lot?

Alice Brown inquires why rezone more than what is being asked for?

Tim Stroth states his feeling to rezone entire lot C2.

Multiple people talking. Reviewing all options.

Tim Stroth expresses that by leaving the 4-acre RR/A is helping to appease the neighboring residents (2). There was a noted dialogue at a recent meeting between Mr. Kelly and a neighboring resident following meeting. Tim asked Mr. Kelly if there was anything in the discussion that he would like to share.

Harrison Kelly was open to discussion. Both parties approached each other. The resident stated he understood what Mr. Kelly's intention is but is concerned. He is concerned that his property will be surrounded by commercial properties. Mr. Kelly invited the resident to sit with him to look at plans at which time he agreed. He spent time looking them over. Mr. Kelly pointed out the amount of land that falls into the agricultural space. We shook hands and the resident thanked Mr. Kelly. And that was it.

Tim Stroth states he feels as if there was a compromise.

Laurie Kutina states she can see the plan on Mr. Kelly's table and notice how nicely shaded the 10-acre section is colored and absolutely nothing on the remaining 4 acres. Reconfirming there is no plan for 4-acre parcel. Stated, if it were hers she'd probably get rid of it.

Chairman, Doug Crow states another resident may buy it and be happy to build a house next to a golf facility, which would create the best kind of buffer.

Tim Stroth points out the other side of the coin where the other two properties turn over and petition to be zoned commercial in line with our comprehensive plan. That parcel to accomplish a long-term comprehensive plan.

Chairman, Doug Crow states that is a good argument to go against conservation easement. We don't know the next 10 years.

Chairman, Doug Crow asks if we could get to put together a proposal.

Tim Stroth opinion is to go with agenda #4. Rezone to C2 and leave buffer as RR/A without restrictions. At a later date, using SUP can add restrictions.

Multiple people talking.

Chairman, Doug Crow asks if there re any other proposals? Asks if anyone would make a motion?

Tim Stroth makes a motion to rezone the 10-acre parcel to C2 and maintain 4 acres with current zoning without restrictions. At latter date may use SUP/ site plan to add restrictions for future.

Alice Browns seconds motion. No opposed.

Motion carried.

Chairman, Doug Crow made a reminder to do require training to board.

Chairman, Doug Crow requested someone to make a motion, to adjourn meeting.
Tim Stroth made a motion to adjourn.

Jeanne Beiter seconded. Motion carried.

Chairman, Doug Crow adjourns meeting.