

**TOWN OF CEDARBURG
MEETING OF THE BOARD OF SUPERVISORS
February 1, 2023**

Present:

David Salvaggio, Chairman
Wayne Pipkorn, Supervisor Seat 1
Larry Lechner, Supervisor Seat 3
Thomas Esser, Supervisor Seat 4

Eric Ryer, Administrator
Adam Monticelli, Director of Public Works
Jack Johnston, Asst. Administrator/Clerk
Brad Hoeft, Town Attorney
Amy Barrows, Town Planner
Ryan Fitting, Town Constable

Absent:

Russ Lauer, Supervisor Seat 2

1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE

Chairman Salvaggio called the meeting to order at 7:00 pm. The meeting began with the pledge of allegiance.

2. ANNOUNCEMENTS

Assistant Administrator/Clerk Johnston reported that the audio/video upgrades in the Town Board Room were about 95% complete. He also reported that in-person absentee voting for the 2023 Spring Primary begins at Town Hall on February 7th.

3. HEARING OF THE PEOPLE:

Brian Marquardt, 5304 Pleasant Valley Road, spoke on item #11b regarding the cellular communications tower. He thanked the Board for granting him the time to speak and respecting due process. He stated that the proposed installation of the tower impacts him and asked the Board to deny it. He stated the Board denied an application for a tower back in 2017 and has the opportunity to do it again. He stated he understands health cannot be considered when granting or denying cellular tower communication applications, but asked the Board to consider property values, as well as preserving Pleasant Valley Park & Trails.

Joe D'Acquisto, 5512 Pleasant Valley Road, asked the Board to deny the cell tower application. He expressed frustration with the public notice post card sent to property owners being the only form of communication regarding the application sent directly to property owners. He also commented on the January 24th Plan Commission meeting, expressing discontent with the meeting operation. He asked the Board to consider their determination in 2017 to deny a cell tower, and deny this application.

Tecwyn Roberts, 5541 Pleasant Valley Road, spoke to echo the comments of his neighbors. He asked how this application was different from the 2017 cell tower denial. He also stated that the Town did not need another TV provider in Dish Network.

Michael Thon, 5408 Pleasant Valley Road, thanked his neighbors for their comments. He stated he did not previously know about the state statute that establishes a 90-day time period for action. He stated he has had no answers nor any communication on this item.

Miranda Matthies, 1985 Maple Road, was not in favor of the tower proposal. She stated that it was difficult to follow applications on the Town website in order to stay informed. She also

expressed the opinion that publishing notices in the News Graphic was not acceptable or a sufficient means of communication.

4. COMMUNICATIONS AND REQUESTS FOR HOLDING TANK AGREEMENTS AND OPERATOR LICENSES:

a. Discussion and possible motion regarding operator license applications for the 2022-23 license period*

Assistant Administrator/Clerk Johnston clarified that the packet materials indicated two of the operator license applications have pending recommendations by the Constable. The Constable recommendation for both of the pending applications came in after the publishing of the packet; Constable Fitting recommended approval of both.

Supervisor Pipkorn made a motion to approve operator license applications for the 2022-23 license period for Amber Cheyne, Jacob Miller, Sarah Butler, and Carlie Buckley. Supervisor Esser seconded, and the motion passed unanimously.

5. CONSENT AGENDA: *The Consent Agenda contains routine items and will be enacted by one motion without separate discussion unless someone requests an item to be removed for separate consideration and vote.*

- a. Accepting November 16, 2022 Plan Commission Meeting Minutes**
- b. Approving December 21, 2022 Special Town Board Meeting Minutes**
- c. Approving January 4, 2023 Town Board Meeting Minutes**

Supervisor Pipkorn made a motion to approve the consent agenda. Supervisor Esser seconded, and the motion passed unanimously.

6. TREASURER'S REPORT

a. Motion Accepting the January 2023 Treasurer's Report*

Supervisor Lechner made a motion to approve the January 2023 Treasurer's Report. Supervisor Pipkorn seconded, and the motion passed unanimously.

7. PRESENTATION OF BILLS/PURCHASE ORDER/PAYROLL/AWARDS: *The bills presented for review have been paid from the Town treasury as authorized under Sec. 60.44(2), Stats., and Sec. 63-8 of the Code of Ordinances.*

a. Presentation of Bills/Purchase Orders/Payroll/Awards for January 1, 2023 to January 31, 2023 (Check #'s 38198-38276, V3613-V3655, and manual checks as shown)*

Supervisor Esser made a motion to accept the January 2023 bills, purchase orders, payroll and awards. Supervisor Pipkorn seconded, and the motion passed unanimously.

8. REPORTS TO BE RECEIVED/FILED (Non-action items)

a. Possible report regarding local nuisance/law enforcement issues (Constable Ryan Fitting)*

Constable Fitting reported that he conducted four background checks over the course of the last month. No other service requests were received.

b. Report on recreation finances*

Administrator Ryer reported a year-to-date balance of \$27,313, due mostly to revenue from sponsorships as well as registration fees.

9. PUBLIC HEARINGS

a. None

10. OLD BUSINESS

a. **Discussion and possible motion appointing an election official for the term ending December 31, 2023***

Supervisor Esser made a motion to appoint James Flynt as an election official for the term ending December 31, 2023. Supervisor Pipkorn seconded, and the motion passed unanimously.

11. NEW BUSINESS

a. **Discussion and possible motion on an architectural and site plan review for an 2,688 square foot outbuilding addition for the property located at 10006 Bridge Street [Owner: Scott Witte, NW ¼ & NE ¼ of Section 29, 10.97 acres, zoned A-1 Agricultural]***

Scott Witte would like to construct a 2,688 square foot outbuilding addition to a current outbuilding on his property located at 10006 Bridge Street. The existing building is 48' by 72' and the proposed addition is 48' by 56', bringing the total of the building to 6,144 square feet if built. A principal building of this size is allowed on the 10+ acre lot, as there is no limit on the size of agricultural buildings on A-1 properties greater than 8 acres. However, Section 320-25 of the Town Code explains that new buildings greater than 1,500 square feet are required to go before the Plan Commission and Town Board for architectural and site plan review.

Staff introduced the item, explaining this is an application for a building addition to an existing outbuilding on the property that would be used for cold storage.

Following discussion, Supervisor Esser made a motion to approve the architectural and site plan review for an 2,688 square foot outbuilding addition for the property located at 10006 Bridge Street, indicating the following conditions for the architectural review being present:

- (1) The proposed use(s) conforms to the uses permitted.
- (2) The dimensional arrangement of buildings and structures conforms to the required area, yard, setback, and height restrictions of this chapter.
- (3) The proposed on-site buildings, structures, and entryways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress, interior/exterior traffic flow, stormwater drainage, erosion, grading, lighting, and parking, as specified by this chapter or any other codes or laws.
- (4) Consideration should be given to preserving the natural features of the landscape where they can enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes or where they assist in preserving the general safety, health, welfare, and appearance of the neighborhood.
- (5) Adverse effects of the proposed development and activities upon adjoining residents or owners are minimized by appropriate screening, fencing, or landscaping, as provided or required in this chapter.

Supervisor Lechner seconded, and the motion passed unanimously with Supervisor Pipkorn abstaining.

- b. **Discussion and possible motion on a conditional use permit application by Bridger Cell Assets, LLC to construct a 150-foot tall multi-carrier wireless telecommunications monopole and associated equipment within a 50' x 50' lease area located at the parcel with tax key #030021200100 on Pleasant Valley Road [Owner: Town and City of Cedarburg, zoned A-1 Agricultural & C-1 Conservancy, 9.99 acres, SW ¼ Sec. 2]***

J. Michael Long, Husch Blackwell, LLP., has submitted an application as an agent of Bridger Cell Assets, LLC. (Bridger) to locate a 150' tall monopole cell tower on a nearly 10-acre property owned by the City of Cedarburg and Town of Cedarburg located on Pleasant Valley Road just west of the Pleasant Valley Park and Trails. The tower would be painted a pine green color. Bridger is proposing the monopole be within a 50'x50' fenced lease area to allow for up to four users of the facility. The ground area that will be available for individual lease is shown on the plans. Access would be provided by a 20' wide access and utility easement off of the existing driveway used by the City and Town as shown on the attached drawings. The applicant is proposing a 10 ft. wide landscape area west of the 50'x50' fenced area. The landscaping would include five white spruce evergreen trees. The applicant is proposing chain-link as the fencing material.

Dish Network would be the first tenant to locate on the tower. There will also be space available for accessory equipment to be placed at the base of the tower. Dish Network is proposing a 5 ft. x 7 ft. equipment cabinet in a 10 ft. x 15 ft. individually leased area. The equipment will be approximately 7 ft. tall.

Town Consulting Planner Barrows went over the application and materials, reporting that the Plan Commission recommended approval of the project at their special meeting on January 24th. Planner Barrows went into detail on the application, explaining the applicants have submitted the sworn statement as required by statute. She reminded the Board that the Town is limited in what it can ask for in regards to cellular telecommunication towers. She reviewed the draft conditional use permit as posted in the packet materials. Of note, the Plan Commission requested additional screening of "evergreen plantings that are native to Wisconsin and at least 6 ft. in height at time of installation." Planner Barrows verified that request has been added to the draft conditional use permit. Planner Barrows asked Assistant Administrator/Clerk Johnston to clarify the public noticing that went along with the application. He reported that post cards were sent to property owners within 1000' of the perimeter of the 10-acre property where the cell tower would be located. Post cards were sent on November 30th after the application was received for a December Plan Commission meeting that was ultimately rescheduled to January. Post cards were then resent on January 2nd for the January 24th Plan Commission meeting. Public notices were also published in the News Graphic on December 9th, January 5th, and January 12th in accordance and compliance with statute as well as Town ordinance for public hearing on conditional use permit applications.

Attorney Michael Long, on behalf of Bridger Assets LLC, introduced himself to the Board and stated the applicants have reviewed the draft conditional use permit and were agreeable to the terms of the permit. He also clarified that while Dish Network would be the first client to locate on the tower, it is not for TV, but data/voice.

Town Attorney Hoeft reported that additional public comment received after the agenda packet was published on January 27th was supplied to the Board prior to the meeting. The minutes from the Plan Commission meeting were also included in the packet materials. He also commented on the comparisons from the 2017 denial of a cell tower application, explaining that every application should stand on its own merit and be considered

individually. While the Town has denied a tower application in the past, they have also approved applications for cell towers.

Supervisor Lechner commented on the application at hand, clarifying the tower would not be located on the Pleasant Valley Park and Trails site, but a separate parcel west of it. He noted the park is not a nature preserve, but is a former landfill site that was repurposed for passive uses. Cell towers are located throughout municipalities, and more towers are needed from time to time for coverage.

Supervisor Lechner addressed the findings that must be considered when granting a conditional use permit application including the following: the Town is prevented from considering any health concerns in this case; the property is zoned A-1 and C-1 which is consistent with most nearby property; the tower will not impede on nearby properties; the tower will have adequate infrastructure; access to the site for service is already in place; state statute precludes the Town from considering the parcel's zoning, or possible other locations for the tower when making their motion.

Supervisor Lechner then made a motion to approve a conditional use permit application by Bridger Cell Assets, LLC to construct a 150-foot tall multi-carrier wireless telecommunications monopole and associated equipment within a 50' x 50' lease area located at the parcel with tax key #030021200100 on Pleasant Valley Road, taking into account the following findings being present as previously described:

- 1) Welfare. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (2) Compatible with adjacent land. The uses, values and enjoyment of other Town property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
- (3) Not impede surrounding property development and improvement. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding Town property for uses permitted in the district.
- (4) Adequate infrastructure. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (5) Ingress and egress. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) Conform to zoning district regulations. The conditional use application shall conform to all applicable regulations of the district in which it is located.

Supervisor Esser seconded, and the motion passed unanimously.

12. ADJOURNMENT

Supervisor Esser made a motion to adjourn at 7:35 pm. Supervisor Pipkorn seconded, the motion passed unanimously and the meeting adjourned.

Respectfully Submitted,

Jack Johnston
Assistant Administrator/Clerk