



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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C. SCOTT VANDERHOEF
County Executive

THOMAS B. VANDERBEEK, P.E.
Commissioner

November 7, 2013

ARLENE R. MILLER
Deputy Commissioner

Ramapo Zoning Board of Appeals
237 Route 59
Suffern, NY 10901

Tax Data: 32.11-1-6

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date: 8/23/2013

Date Review Received: 10/21/2013

Item: *BAY COMMUNICATIONS II, LLC/MOLESTON FIRE DISTRICT (R-2359B)*

Variances for side setback, maximum tower height and maximum development coverage to allow the construction, maintenance and use of a 155-foot wireless telecommunications monopole inside an 80' x 80' fenced equipment compound on a 3.69-acre site of an existing fire department in the R-40 zoning district. Existing non-conforming conditions for the firehouse include front setback, side setback and total side setback.

West side of Route 306, 1040 feet north of Boar Court

Reason for Referral:

NYS Route 306, Village of Pomona

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Recommend the following modifications***

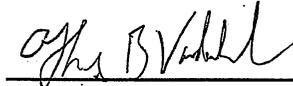
1 Section 376-1214.H.(3) limits the height of any freestanding wireless communications services facility to 100 feet. The proposed monopole is 155 feet. A height variance of 55 percent is therefore required. While the project narrative states, "the proposed height of the pole is appropriate because it is required for AT&T to provide adequate service to its customers and also allows for the Moleston Fire Department to enhance its current wireless communications systems," it does not indicate that 155 feet is the minimum height reasonably necessary to accomplish the purpose it is proposed to serve, as required in Section 376-1214.H.(1). The applicant must provide further justification for this significant height variance. The Town must be satisfied that a monopole closer to 100 feet is not feasible for its intended purpose.

BAY COMMUNICATIONS II, LLC/MOLESTON FIRE DISTRICT (R-2359B)

2 The Village of Pomona is one of the reasons this proposal was referred to this department for review. The municipal boundary is along NYS Route 306, directly adjacent to the site. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

The Village of Pomona must be given the opportunity to review the proposal and its impact on community character. The areas of countywide concern noted above that directly impact the Village of Pomona must be considered and satisfactorily addressed, as well as any additional concerns about the variances required for this special permit use and site plan proposal.

3 The application form, the project description and the Setback Plan (Sheet No. C-3) all indicate that the proposed wireless telecommunications monopole will be 155 feet in height. The bulk table on the Setback Plan states that the proposed tower height is 161 feet. The elevation illustrated on the Site & Elevation Plan (Sheet No. A-1) also depicts an overall height of 161 feet. All application materials must be consistent.



Thomas B. Vanderbeek, P.E.
Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
New York State Department of Transportation
Rockland County Department of Health
EBI Consulting
Village of Pomona
Moleston Fire District

Bay Communications

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.