

**TOWN OF CLINTON
PLANNING BOARD VIRTUAL MEETING
MINUTES
May 4, 2021**

Due to the Pandemic Coronavirus (COVID 19), Emergency State and Federal Bans on large meetings or gatherings and Pursuant to Governor Cuomo's Executive Order No. 202.1 issued on March 12, 2020 and 202.15 as extended, suspending the Open Meetings Law, the Planning Board Meeting held their regular meeting via Zoom videoconference with a You Tube livestream to the public.

Members of the public may also view the Board meeting on the Planning Board video page on the www.townofclinton.com

MEMBERS PRESENT

Art DePasqua, Chairman
Jack Auspitz

Justin Carroll

Katarina Maxianova
Paul Thomas

MEMBERS ABSENT

Gerald Dolan

Sara Love

Secretary – Arlene Campbell

ALSO PRESENT

Dean Michael, Liaison Officer

Chairman DePasqua called the meeting to order at 7:32 pm. He read his opening statement in accordance with the Governor's Executive Order 202.1, and 202.15 as extended, which suspends certain provisions of the Open Meetings Law to allow the Planning Board to convene a meeting via videoconferencing. He added that the public has also been provided with the ability to view the meeting via the Town's YouTube Channel, a link has been provided in the meeting notice, and a transcript will be provided at a later date.

VARIANCE APPLICATION:

None

PUBLIC HEARING:

Burns and Vega Short Term NonHosted AirBnB – property located at 423 Lake Dr, **Tax Grid No. 6469-00-200521.**

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Applicants propose to have a Non-Hosted Short Term AirBnB.

Mr. Thomas motioned to open the public hearing, seconded by Mr. Auspitz, all aye, Motion carried, 5-0.

Mr. Burns stated that they bought this property and currently using this as weekend house. They have a place in Brooklyn and been renovating this house. They want to do AirBnB one to two times a month to help them pay the cost of the renovation/upgrading. Ms. Vega added that this is a small house. They don't want a party house and they want to rent this house to people who will appreciate the country.

Chairman DePasqua asked for questions and comments from the board. Hearing none. The board agreed to close the public hearing.

Mr. Thomas motioned to close the public hearing, seconded by Mr. Carroll, all Aye, Motion carried, 5-0.

APPLICATIONS:

Burns and Vega Short Term NonHosted AirBnB – property located at 423 Lake Dr, **Tax Grid No. 6469-00-200521.**

Applicants propose to have a Non-Hosted Short Term AirBnB.

The applicants were back for the conclusion of their application.

Mr. Thomas expressed no concern about the application. Everything seems to be in order. With regards to SEQR, he suggested getting a determination on whether they need to do SEQR for this application. It seems that it fits the Type II action where no further action is required. Per the Dutchess County Planning, this is a matter of local concern.

The board agreed to consult the town consultant about what type of action is Non-Hosted Short Term AirBnb.

The board reviewed the Short Term EAF and issued a Negative Declaration.

Mr. Thomas motioned the neg. dec, seconded by Mr. Auspitz.

Mr. Thomas motioned that the Town of Clinton Planning Board approves the following resolution in the matter of **Burns and Vega NonHosted AirBnB** on property located at 468 Lake Drive, **Tax Grid No. 6469-00-200521.**

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Whereas, the Town of Clinton Planning Board has received an application for a Special Use Permit from Taryn Burns and Carlo Vega for the purpose of utilizing a principal residence located at 468 Lake Drive in the Town of Clinton as a Non-Hosted Short-Term Rental pursuant to Section 250-69.1 of the Zoning Law; and

Whereas, the applicants do not propose any alteration, excavation or construction on the site in connection with the requested permit; and

Whereas, the applicants have submitted an inspection report, dated within ninety days of the date of the application, stating that the existing sewage disposal system serving the principal dwelling is adequately functioning for the intended use at the time of inspection; and

Whereas, the subject property is identified as tax parcel number 132400-6469-00-200521 and is located in the C Zoning District; and

Whereas, a Short Form EAF, Part 1, has been received; and

WHEREAS, the Planning Board has reviewed all available information regarding the proposed action, including the applicant's submission and the report of the Zoning Administrator, and

WHEREAS, the Planning Board has acted as Lead Agency in the uncoordinated review of this unlisted action, and

WHEREAS, the Planning Board has reviewed the environmental impacts that may be associated with this action, and

NOW THEREFORE BE IT RESOLVED, that the Town of Clinton Planning Board has determined that the proposed action will not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement will not be required, and

FURTHER BE IT RESOLVED, that the Town of Clinton Planning Board cites the following reasons in support of this determination of non-significance.

1. The applicants do not propose any alteration, excavation or construction on the site in connection with the requested permit. Accordingly, the proposed action will entail little or no adverse environmental impacts.
2. Occupancy of the proposed Short-Term Rental will be limited to the maximum capacity of the principal residence as determined by the Planning Board based on its review of the septic system capacity, Certificate of Occupancy and other pertinent information.

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Seconded by Mr. Auspitz, All aye, Motion carried, 5-0.
Discussion. None.

Mr. Thomas motioned that the Town of Clinton Planning Board approves the following resolution in the matter of **Burns and Vega NonHosted AirBnB** on property located at 468 Lake Drive, **Tax Grid No. 6469-00-200521**.

Whereas, the Town of Clinton Planning Board has received an application for a Special Use Permit from Taryn Burns and Carlo Vega for the purpose of utilizing a principal residence ("Dwelling Unit") located at 468 Lake Drive in the Town of Clinton as a Non-Hosted Short-Term Rental pursuant to Section 250-69.1 of the Zoning Law; and

Whereas, the subject property is identified as tax parcel number 132400-6469-00-200521 and is located in the C Zoning District; and

Whereas, the applicants do not propose any alteration, excavation or construction on the site in connection with the requested permit; and

Whereas, the applicants have submitted an inspection report, dated within ninety days of the date of the application, stating that the existing sewage disposal system serving the Dwelling Unit is adequately functioning for its intended use at the time of inspection; and

Whereas, a Short Form EAF, Part 1, has been received; and

Whereas, the Planning Board, acting as Lead Agency, has determined that the proposed project is an Unlisted Action and has undertaken an uncoordinated review of the action; and

Whereas, at its May 4, 2021 meeting, the Planning Board reviewed the EAF and related submissions by the applicant and issued a negative declaration of significance pursuant to SEQRA; and

Whereas, the Planning Board conducted a public hearing during its regular meeting on May 4, 2021; and

Whereas, the Zoning Administrator has inspected the Dwelling Unit and certified that it is in compliance with the permitting requirements set forth in Section 250-69.1 for use of the Dwelling Unit as a Non-Hosted Short-Term Rental and that there are no known zoning violations on the property; and

Whereas, the Planning Board referred the application to the Dutchess County Department of Planning and Development pursuant to General Municipal Law, Sections 239-l and m, and has received a response indicating the application is "a matter of local concern"; and

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Whereas, the applicants have stated that the Dwelling Unit will be utilized as a Non-Hosted Short-Term Rental for approximately six months per calendar year and that the minimum rental duration shall be three nights; and

Whereas, the Planning Board has determined that the maximum number of Lodgers allowed shall be four persons and the maximum number of daytime visitors permitted on the property shall be four persons; and

Whereas, after review of the application and all other submissions by the applicants, the Planning Board has determined that the application and Dwelling Unit are otherwise in compliance with the requirements of Section 250-69.1; and

Whereas, this Special Use Permit shall remain in effect for one year from the date of approval by the Planning Board and shall require renewal by the Planning Board, upon request by the property owners pursuant to Section 250-69.1D(4), no later than the anniversary of such issuance; and

Whereas, the applicants shall ensure that the Dwelling Unit complies with the requirements of Section 250-69.1 at all times while it is being utilized as a Non-Hosted Short-Term Rental and shall otherwise comply with applicable Town, County and New York State law and regulations governing such use; and

Whereas, all applicable fees have been paid:

Now Therefore Be It Resolved, that the Planning Board hereby grants approval of the requested Special Use Permit, effective as of the date of this resolution.

MAXIMUM NUMBER OF LODGERS PERMITTED: 4

PERMIT EXPIRES ON 5/4/2022 (SEE SECTION 250-69.1D(4) FOR RENEWAL PROCEDURE)

Seconded by Mr. Auspitz.

Discussion. None.

Roll call, All aye, Motion carried, 5-0.

Gorelik Special Permit for an Accessory Dwelling – property located at 423 Clinton Hollow Road, Tax Grid No. 6466-00-001667.

Applicant wishes to legalize the 400-square foot-guest cottage on the property in order to do a NonHosted AirBnB on this property.

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Mr. Gorelik appeared for this application. They bought this property in the summer of 2018. It has a house and a barn. At that time, the barn has the shell of an accessory dwelling such as plumbing in place, so they proceeded and finished it to be used as an AirBnB. He noted that everything that they've done did not involve any structural renovation but purely cosmetics. He added that during the process of applying for special permit for the AirBnB, they recently found out that the variance for the barn to be used as an accessory dwelling had expired. They want to rectify this.

Mr. Auspitz stated that one of the biggest issues about this application is the requirement for an adequate water and sewage disposal system. There is a strict requirement in the regulations that a permit cannot be granted unless the applicant can demonstrate that there is an adequate and functioning septic system. Mr. Auspitz stated that he did not find any info from the Department of Health regarding the approved number of bedrooms. There is a septic report stating the size of the septic is 1,250 gal. tank but it doesn't indicate whether this septic is sufficient enough to handle the main house and the accessory dwelling.

Mr. Gorelik indicated his willingness to find the information but just recently found out about this. He contacted the Department of Health but hasn't heard back.

The board discussed the issue. Mr. Auspitz confirmed with Ms. Campbell that there should be a record at the Department of Health about the number of bedrooms approved for this property. Ms. Campbell agreed. The applicant should contact the Department of Health to check about the septic design approval that this property has.

Mr. Auspitz asked the board whether they can set the public hearing or wait for the info about the septic.

Mr. Auspitz asked about the square footage. Mr. Gorelik responded that the size of the barn is 400 feet.

Chairman DePasqua asked if the guest cottage will also be used as AirBnB. Ms. Campbell responded, "Yes". The applicant wishes to do AirBnb for both dwellings on the property.

Mr. Auspitz stated that the accessory dwelling needs to be permitted before it can be granted the use of an AirBnB.

The board had a lengthy discussion about the adequacy of the water and sewage septic system. Mr. Auspitz stated that the property record states that there is four bedroom total. Mr. Gorelik responded that there is a total of three bedrooms in the main house and a loft. He is not sure.

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Ms. Maxianova stated that the guest cottage was not listed in the parcel access. The guest cottage was granted a variance in the 80s to be used temporarily as an accessory dwelling to house the mother of the property owner. That use was terminated when the property changed hands. She also noted that when the property was sold in 2018, the barn was not advertised as an accessory dwelling. She asked, "How big is the lot?" Mr. Auspitz responded that they have 6.5 acres, The applicant met the requirement of double the acreage to have an accessory dwelling.

The board discussed the history of the property. A variance was granted in the 80s for temporary use of the barn as an accessory dwelling to house the elderly mother of the property owner. Mr. Auspitz stated that he would treat this as a new application for a special permit for an accessory dwelling. They need to do a public hearing and find out what neighbors have to say. The building is already there. They are not proposing any new building. Mr. Auspitz felt that the board cannot move forward without getting an answer about the adequate size of the septic system. They need the Board of Health approval for this property.

Ms. Maxianova asked if anybody living in that cottage. Mr. Gorelik responded, "No". There are people living there temporarily but will be living end of June.

Ms. Maxianova stated that the main house has 8 people capacity and the cottage has 4 people. She remarked, "This is 12 people for 1,200 gal septic tank!"

Ms. Campbell noted that the size of the septic Department of Health approval goes by the number of bedrooms and not by the number of people. She underscored that a 4-bedroom house requires a 1,250- gal tank per the Department of Health regulations.

Mr. Auspitz asked how many bedrooms were in the main house and the cottage. Mr. Gorelik responded that there are 3 bedrooms in the main house and one-bedroom in the cottage.

The board exchanged opinion about the issue. Ms. Maxianova stated that they need special permit for both units. Chairman DePasqua felt that they need to know the answer to the septic system before they can move forward. Mr. Auspitz concurred with the chairman not unless the applicant dropped the application about the guest cottage and move forward with just the main dwelling. He noted that they still need to demonstrate the adequacy of the septic system. If they want to just use 3 bedrooms then they have to deal with this with the Department of Health.

Ms. Campbell noted that the guest cottage is still in violation. It cannot be used as an accessory dwelling since it doesn't have a special permit.

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Ms. Maxianova noted that there are two separate listings for these dwellings on the AirBnB website. Separate rates, separate listing! She thinks that this needs two special permit approvals.

Mr. Thomas responded that this is a fair question but the regulation doesn't specify which building you can use as Airbnb on a single lot. The regulation gears on the maximum capacity on a single lot. If the septic capacity is for 3 bedrooms then it will dictate 6 people. The capacity is linked to the septic system. He feels that this can be done with one special permit. It might not be worth it for the applicant to dig up a septic system.

Mr. Carroll suggested doing 2-bedroom rentals on the main house and one on the guest cottage to not exceed the maximum capacity. Mr. Thomas responded that is a possibility. They can do maximum lodger on the main house and the cottage.

Chairman DePasqua disagreed. He doesn't know how you can monitor

Ms. Maxianova asked how far is the creek? The applicant responded that the creek is 200 yards.

Ms. Maxianova asked if the applicant needs to cease the Airbnb use on the guest cottage since this is not legal. Chairman DePasqua responded, "Yes".

Mr. Gorelik noted that they were not aware that the guest cottage was not legal. The barn has all the plumbing in place to be used as an accessory dwelling.

After a lengthy discussion, the board agreed that they cannot move forward with the special permit for the accessory dwelling till the issue about the septic system is addressed.

No action taken.

Lack and Winokur Soil Erosion Permit (continuance) - 157 Coyote Ridge Road, Tax Grid Nos. 6268-00-662090 & 625110.

The applicants wish to construct a common driveway, residential structures, a pool, and sewage disposal systems on the above two parcels.

Mark Graminski and Seth were back before the board. Mr. Graminski recapped what happened at the previous meeting. He explained the comments from the Town Engineer dated May 3, 2021. He addressed the comments and came down to mainly two items that require additions to the plans. He explained the details of

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the drainage system. The Department of Health actually asked for the same requirement that would also be addressed by the Town Engineer's comment. He also indicated the details on the Lot line alteration of the drainage system.

Mr. Graminski discussed the multiple alternatives for the common driveway location and noted that the town engineer did not have any major issues with the proposed common driveway location.

Mr. Thomas stated that there are still outstanding comments per the last letter from the Town Engineer. He suggested having a meeting/discussion with the town engineer to work out whatever issues left there are and get the green light to make the modifications to the plan.

Chairman DePasqua agreed. Address the Town Engineer's comments and once the modifications are on the plan and the town engineer signs off on it, the board can issue an approval.

No action taken.

Baker Demolition Plan Approval - 412-416 Hollow Road, Tax Grid No. 6367-00-069110

Applicant proposes to demolish an old barn that is in disrepair.

Margaret Baker appeared for this application. She stated that she wants to demolish a horse barn built in 1970 that is rotted, sinking to the ground, part of the roof has caved in and the building is beyond repair. The barn does not have a foundation. She wants to replace this barn at a different location.

Mr. Auspitz stated that the picture stated a thousand words. This is a nonconforming and pre-existing 2-acre parcel in the AR3 Zoning District.

The board reviewed the Short Form EAF and issued a negative declaration.

Mr. Thomas motioned the following:

BE IT RESOLVED, the Town of Clinton Planning Board has determined that the Baker Demolition Plan on property owned by Margaret Baker located at 412-416 Hollow Road, **Tax Grid No. 6367-00-** will not have a significant impact on the environment; and;

BE IT FURTHER RESOLVED the Town of Clinton Planning Board hereby issues a Negative Declaration pursuant to the requirements of the State Environmental Quality Review Act 6 NYCRR 617.6 (g) and in accordance with Article 8 of the Environmental Conservation Law.

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Seconded by Mr. Carroll, all Aye, Motion carried, 5-0.

Ms. Maxianova read the motion drafted by Mr. Dolan.

Ms. Maxianova motioned that the Town of Clinton Planning Board approves the following resolution:

BE IT RESOLVED, the Town of Clinton Planning Board issues a Demolition Plan Approval to the Building Inspector for the barn belonging to Margaret M Baker on property located at 412-416 Hollow Rd., Tax Grid 132400-6367-00-069110-0000, a 2-acre parcel in the AR3 zone

Whereas:

1. The barn in this application for demolition was built in 1970 on this non-conforming pre-existing 2-acre parcel. It is a 16'x24' structure with no foundation. There is not any designation of significance on this barn or property as confirmed by National Register of Historic Places in Dutchess County, New York.
2. This barn is being demolished because it is beyond repair, having sunk into the ground such that the doors don't work and part of the roof has caved in. There is no historic value to this barn.
3. Demolition will take place by machine and loaded into a dumpster for removal.
4. Proposed future use of the property is to build a new 12'x30' building for which a building permit has been submitted for construction at another location on the property.
5. The applicant provided comprehensive interior and exterior photos of the barn. Also provided was a hand drawn plan of the exterior of the building, and showing the location of the primary structure and barn on the property and the planned location of the new building.
6. At the meeting on 5/4/21 the Environmental Assessment Form submitted by the applicant was completed by the board resulting in a negative declaration which was approved by the board.
7. All appropriate fees have been paid.

Now, therefore, be it resolved, the requested Demolition Plan is granted approval by the Town of Clinton Planning Board.

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Seconded by Mr. Auspitz.

Discussion. None.

Roll Call, All Aye, Motion carried, 5-0.

Kross 3 Lot Subdivision (Discussion)– property located at 1403 Centre Road,
Tax Grid No. 6467-00-476009

Applicant wishes to subdivide a 61.01-acre parcel into 3 lots. Lot 1 – 28.36 acres, Lot 2 – 16.32 acres and Lot 3 – 16.33 acres.

Steve Alex from Chazen Engineering appeared and explained his proposition. The property owner wishes to subdivide the parcel into 3 lots. He thinks that there are variances required for the proposed layout. There is a house that was built in 1792 that is too close to the road. The barn and the stable are also closed to the proposed property line. He discussed all the structures that are on the property. He stated that he wants to get a direction from the board on how to proceed. He asked, "Should they get the variance first before the subdivision approval? "

Chairman DePasqua explained the process of the variance. He asked if the Kross has an Ag Exemption. Mr. Alex responded, "Yes."

The panel had a lengthy discussion about the proposal. Mr. Auspitz expressed his opinion based on his site visit. He stated that per the property owner, he has been trying to sell this property for a couple of years and there was no movement. The real estate folks advised him to subdivide the parcels.

Mr. Auspitz stated that the garage on Lot 2 looks closer to the proposed property line. He asked the applicant if he is proposing a variance for that structure. Mr. Alex responded, "Yes."

Mr. Thomas asked if there is a septic system where the existing barn is. Mr. Alex responded that there is no septic system in that area.

Mr. Thomas expressed his comment. There's a lot of stuff going on this parcel. There are wetlands and flood areas. One of the requirements of creating a lot is to demonstrate whether it is buildable. They need to show the building envelope, driveway access, septic, well, etc. If somebody buys Lot 3 and decided to build a house or convert the existing barn to a house, they need to show that this lot is buildable.

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The panel had a lengthy discussion about the proposal. Mr. Alex said that they can do a soil test and deep soil test percolation to show that the soil is adequate. He can show the setbacks and buffer for the wetlands and the flood plain on the sketch map. With regards to showing access to the proposed lots, Mr. Alex said that there is existing access called farm entrance to the southeast side of the garage. He can show that access on the map as well.

Mr. Thomas commented about the lot where the stable is. This lot can be sold as an equestrian facility or residential lot. They need to show that it is feasible to build a house there. He said that he doesn't know the answer to that question.

Mr. Auspitz commented that the stable is quite large. He asked, "Can you convert this large stable to a house?" Mr. Thomas responded, "Yes, sure."

The board discussed ingress and egress. Mr. Thomas stated that they need to demonstrate that a driveway can get in there if the future owner decides to build a house on these lots. They need to talk to the county to make sure that they can put a driveway in there. The county needs to approve the location of the proposed driveway. The applicant agreed.

Chairman DePasqua suggested that he should talk to the Zoning Officer to check what variances are required.

No action taken.

Verizon Wireless Cell Tower Special Permit – 90 Germond Road, Tax Grid No. 6567-00-209058

Applicant wishes to upgrade the existing telecommunication in the Town of Clinton by providing fourth generation (4G) broadband and other wireless telecommunications services.

Scott Olson attorney for Verizon Wireless appeared on behalf of the applicant. He explained that Verizon Wireless currently operates an existing wireless facility on this property. This is an existing 58-foot silo with a 12-foot by 30-foot equipment shelter. He noted that you don't see any antennas, they are all internal.

Mr. Olson stated that they want to remove 9 of the internal antennas and do some upgrades. The total antennas will remain at 12. During the process of prepping the application, Mr. Olson stated that they learned that the existing special permit has expired. They need to renew this permit along with what they're trying to do with the replacement of the antennas.

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Mr. Carroll indicated the history of Verizon Wireless. This facility had been in operation for years. The last special permit renewal was in 2010 and since it lapsed, the code states that they need to restart the process.

He noted that both the landowner, (Juerss) and operator (Verizon Wireless) need to file the special permit per the zoning regulations. He commented that he didn't see the landowner's special permit application in the packet. This is a requirement.

Mr. Carroll stated that wireless facility are subject to Federal Environmental Law. The process needs to be streamlined per FCC guidelines.

The panel had a lengthy discussion. Mr. Olson agreed with Mr. Carroll that the special permit cease to exist and this is now technically a new permit and not a renewal per the town zoning regulation. He noted that this is the reason why they submitted a new application along with the important supporting materials and structural analysis.

Mr. Olson explained that the new antennas combined with the existing antennas will bring the facility fully compliant with the FCC requirements. He commented that there are no health impacts as these antennas are located approximately 45 feet in the air. He noted that under the FCC regulations, any antennas 33 feet above the ground are exempt from any health impact analysis. He indicated the engineered sign report that he submitted with the application confirming that they are within the FCC parameters.

The panel discussed SEQRA. Mr. Olson stated that nothing is physically being changed on the exterior. They have an existing facility that is up and running.

The board had a lengthy discussion on how to treat this application. New application requires re-starting the whole process. Mr. Carroll stated that it seems that the Federal Law is prescribing them to approve this application. He feels that Mr. Olson opinion is that the board still needs to go through the process and take a vote on it.

Mr. Olson agreed. He said that the board needs to approve the application within 60 days per the FCC regulations. It still gives the board time to review the application and make a decision.

Mr. Carroll opined that it is a question of how much time and money they want to spend in reviewing this application. He feels that the board still needs to do their due diligence and should seek a professional review. He added that another thing to consider is the amount of the special permit application. They've been

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running a commercial operation for 11 years without a special permit. They could have done the renewal process every two years and paid all the fees for the last ten years. He feels that they need to recoup all the fees that were lost. This is setting precedence. He commented that they should encourage people to follow the law.

The board discussed how to move forward with the application on hand. Mr. Thomas stated that they need a town consultant that specializes in cell tower.

Ms. Campbell stated that they also need to check if the removal and restoration bond is still in place. Mr. Olson stated that he will look into this. Ms. Campbell said that the town attorney needs to be involved with this application to review the bond.

Mr. Thomas stated that the board also needs guidance from the town attorney about the scope of the review from a legal perspective. There are a lot of legal and engineering questions.

Ms. Maxianova asked Mr. Olson about any plans in doing 5G. Mr. Olson responded that he doesn't think that they will be coming back to do 5G in the near future.

After a very lengthy discussion, the board agreed to establish an escrow.

Mr. Carroll motioned to establish an escrow in the amount of \$5,000 for the Town Attorney and \$2,000.00 for the Town Consultant in the matter of Verizon Cell Tower Special Permit application on property located at 90 Germond Road, Tax Grid No. 6567-00-209058, seconded by Mr. Auspitz, roll call, all Aye, Motion carried, 5-0.

No other action taken.

Board Discussion.

Dean Michael, Liaison Officer joined the board and discussed Short Term Rental.

APPROVAL OF MINUTES:

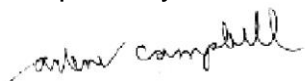
No minutes were approved.

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ADJOURNMENT:

Katarina motioned to adjourn the meeting at 10,15 pm, seconded by Mr. Auspitz
All, Aye, Motion carried, 5-0.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Arlene Campbell".

Arlene A. Campbell, Clerk
Planning & Zoning Board of Appeals