

**PARMA PLANNING BOARD**  
**March 19, 2007**

Members Present:	Chairman	Ed Fuierer
	Acting Executive Secretary:	Art Fritz
		Rick Holden
		Tod Ferguson
		Tim Harner
		Bob Pelkey

Public Present: Kyle MacCallum, John Stockly, Robert Crowley, Bill DePasquale, Mary DePasquale, John Scirabba (Land Tech), Kris Schultz (Schultz Associates), Dan Crowley, Mary Crowley, Carm Carmestro (TB), Paul Costelli and Nick DeGregorio

Meeting started: 7:06 p.m.

**PUBLIC HEARING**

**All Seasons Subdivision**                      **Section 4A - 17 Lots**                      **Fallwood Terrace**  
Kris Schutlz presented to the Board a plan for this application for preliminary approval.

Chairman Ed Fuierer read the legal notice.

Chairman Ed Fuierer read the following correspondence from the following referral agencies:

1. Town Engineer: 2/23/2007
2. Monroe County Department of Planning and Development: 3/7/2007

Chairman Ed Fuierer opened the Public Hearing.

**PUBLIC COMMENTS:**

None

**BOARD COMMENTS:**

Tod Ferguson stated that in the Town Engineer's letter he was concerned with the land locking of the back parcel. By approving this section will the back parcel of this property be land locked? Mr. Schultz stated that they are not going to be land locking the back parcel and that when section 4B is brought in they will be leaving frontage for access to the back parcel. Mr. Schultz pointed out to the Board how they plan to do this with section 4B on the plans.

Chairman Ed Fuierer closed the public hearing.

Art Fritz reminded the Board that SEQR was granted on the overall plans and it was an unlisted action under SEQR.

**A motion was made by Tod Ferguson and seconded by Rick Holden to grant preliminary approval for this application and that they recognized that this project had been listed as a unlisted action under SEQR. Motion carried unanimously 5-0.**

### **CONTINUING BUSINESS**

222 Burritt Road

Site Plan

Carl Essler introduced himself to the Board, stating that he was the attorney for Cricket Communications and found it very unfortunate that his clients felt the need to bring their attorney to the meeting for such a straight forward application.

Mr. Essler then stated that he did not feel that the Board should hold his client's hostage for an issue that is clearly the owner of the properties responsibility not the renter's. That his client's application was to co-locate antennas on the existing tower with cabinets on a platform within the enclosed area. He asked the Board to not hold his client "hostage" and approve their application.

At this time he handed it over to the representatives from Crown Castle the owner of the property.

John Stockly stated that he was the attorney for Crown Castle and that his client has recently acquired the property and have agreed to place a gate and have even agreed to supply money to have pine trees put in pine trees requested for privacy. That they are trying to be a good neighbor, they have agreed to these two items and are willing to maintain the road as approved in the original site plan but they are not going to pave the road. That they understand that there is an issue with the gravel being outside the easement and that come spring time his clients will go to the site and clean up the gravel and repair the road to the approved specs per the original approval.

Mr. Stockly stated that he was informed that at the last meeting the Board was presented with the original easement dated March 20, 1997. Mr. Stockly then provided to the Board a copy of a letter from Chamberlan D' Amanda et al dated March 19, 1997 regarding Sprint PCS - DiPasquale easement. The letter stated: "Sprint PCS will contract with the DePasquale's chosen contractor to construct the Access Road described in the Easement Agreement at a cost not to exceed \$56,000...." Under this typed paragraph there is a handwritten portion which states: "Paving shall be deferred not more than two (2) years after completion of the gravel underbase..." The handwritten portion was initialed by all interested parties.

Mr. Stockly then presented to the Board a copy of the Amendment that was filed in regards to the original easement. In this filed Amendment under paragraph #1 it states: "In consideration of the DePasquales agreement to preform repairs described in Section 2 of this Agreement and the release of claims contained in Section 3 of this Agreement SSLP agrees to pay to the DePasquales the sum of \$20,000 within 30 days after the execution of this Agreement by both parties."

Under paragraph #2 it states: "The DePasquales will continue to be responsible, at their sole cost and expense, for the repair, maintenance and replacement of the access road, as provided in paragraph 3 of this Agreement til March 31, 2002.

Under paragraph #3 it states: The DePasquales hereby release SSLP from any and all claims, costs and damages incurred by the DePasquales arising from any failure by SSLP to construct the access road in accordance with the Drawings."

Mr. Stockly then commented that although it was stated in the last meeting that his clients can afford to pave the road, his clients are trying to be good neighbors and have agreed to additional items for the DePasquales but they do not have an open checkbook for putting in improvements for the neighbors.

Keith O'Toole then asked the Board if he could be heard, as he was there representing the DePasquales again this evening. The Board agreed to hear him.

Mr.O'Toole again repeated his demands made at the last meeting and stated his client would not accept anything but a paved road.

At this point in the meeting a dialect commenced between the Mr. O'Toole, Mr.Stockly and Mr. Essler on their interpretation of the law and why they felt their opinion was correct. The issues brought up at the last meeting were again rehashed by the three attorneys.

An issue as to the exact width of the road was discussed.

Mr. O'Toole stated that at the last meeting the Board has stated that they wanted to the two sides to get together and discuss the options. Mr. O'Toole stated that he tried calling the Crown representatives a couple of times but never got a return call.

The Board gave the parties a chance for each one of them to make their points.

Chairman Ed Fuierer reviewed with the Board the original approved plans and the road detail. Chairman Fuierer stated that no where in the original plans did it call for the driveway to be paved, that it called for a stone driveway.

The Board reviewed the original approved plans.

A lengthy discussion was held on the original approved driveway profile and what was built on the site.

Mr. Holden stated that he had visited the site and went all the way back to the tower. He reported to the Board what he saw.

A lengthy discussion was held on the drainage of the site.

222 Burritt Road Continued:

After another lengthy discussion on the condition of the road and how it was constructed.

The Board then asked Mr. DePasquale if he would accept the offer made by Crown.Castle (to put up a new gate at the road, to give the DePasquales Five Thousand Dollars to put in evergreens of their choice for privacy and that in the spring they would come out to the site and clean up the stones in his yard and refurbish the road to the originally approved specs.

Mr. Depasquale stated that he would agree to that. That he felt they would be spending more money for the stone then if they paved the road, but as long as it is restored to the 15" base he would be happy.

A discussion was then held in regards to how Mr. O'Toole was going to be guaranteed that his clients would receive the \$5k and who was going to inspect the road to make sure it was done properly.

A discussion was held with the Board and Art Fritz. Mr. Fritz stated that the Town would go out and inspect the road during the construction but this was a private road and they would not going out and inspecting the road after it has been completed.

It was agreed by Crown Castle to clean up the property as soon as possible and would provide the Town with an "as-built" plan when the road was completed.

**A motion was made by Tim Harner and seconded by Rick Holden to approve the application of Cricket Communications for co-locating on the cell tower located at 222 Burritt Road. Mr. Harner noted that the Planning Board's decision would not prejudice the Depasquale's rights under the easement; for example despite any decision of the Planning Board, the Depasquales continue to have the right to bring a Civil suit to require the road be maintained properly as provided by the easement. Mr. Harner noted that SEQR was determined with the original application from Sprint. With this motion they also put Crown Castle on notice that they are requiring them to clean up the stone and ruts in the neighbors yard as soon as possible, that the gate at the road needs to be constructed at their earliest convenience and they have until July 31, 2007, to restore the road to the originally approved specs, as shown on the approved plans for this site, and to supply the Town an "as built" plan, prepared and stamped by a professional engineer, of the restored road by 11/15/2007. Motion carried unanimously 5-0.**

King Subdivision - Lot #4 Davison Beach Road, f/k/a Alder Beach Service Road  
Kris Schultz presented to the Board revised plans for this subdivision for final approval.

Chairman Ed Fuierer read a letter from Scott North, the President of the Alder Beach Road Association, dated 3/17/2007.

Brian Speer stated that there had been some confusion as to who actually owned this road. Mr. Speer stated that the State did some research into the ownership and found that the road was dedicated to the Town in 1954. Mr. Schultz stated that the Road was renamed to Davison Beach





1. Letter from Larsen Engineering, dated 3/19/2007, regarding cell towers.

**A motion was made by Rick Holden and seconded by Bod Pelkey to approve the minutes of the March 1, 2007 meeting as presented. Motion carried unanimously 4-0 (Tim Harner absent for 3/2/2007 meeting).**

**There being no further business a motion was made by Tim Harner and seconded by Tod Ferguson to end the meeting at 9:03 p.m. Motion carried unanimously 5-0.**

Respectfully submitted:

Marueen L. Werner  
Recording Secretary.