

Minutes of a regular meeting of the
Johnson City Planning Board held
on November 23, 2021 at 7:00pm at
243 Main Street, Johnson City, NY.

Present: Mary Jacyna, Vice Chair
Marcia Ward
Greg Matyas
David Michalak

Also Present: Keegan Coughlin, Attorney for the Village
Kim Cunningham, Planning Board Clerk
Martin Meaney, Village Board Trustee
Stephanie Yezzi, Senior Planner

Absent: Gerald Putman, Chairman

A work session was held at 7:00pm.

The Board discussed the agenda and the applications.

Vice Chair Jacyna called the Planning Board meeting to order at 7:30pm and noted the emergency exits.

MINUTES

Approval of the October 26, 2021 meeting minutes of the Johnson City Planning Board was made by Ms. Ward and seconded by Mr. Michalak. The motion carried with all those present voting in the affirmative.

PRIVILEGE OF THE FLOOR

Vice Chair Jacyna opened the privilege of the floor. There being no one who wished to speak, Vice Chair Jacyna closed the privilege of the floor.

PUBLIC HEARING

5-11 Avenue C – AJEM Group, LLC

Site Plan Review – Renovation of multi-family building from 18 units to 10 units

Michael Abettan of AJEM Group appeared on behalf of the project.

Attorney Coughlin discussed the following:

- ADA compliance and Building code
- If Amend application to one ADA unit and the Planning Board could consider waiving parking requirement under Village Code.
- If want to keep application the same, they would need a building code variance from NYS.
- Amount of waivers already granted



A motion that the Johnson City Planning Board table 5-11 Avenue C until December 28, 2021 was made by Mr. Matyas and seconded by Ms. Ward.

Motion Carried - Vote:

Yes – 4 (Matyas, Ward, Michalak, Jacyna) **No** – 0 **Absent** – 1 (Putman)

NEW BUSINESS

96 Harry L. Drive – Jerry’s Kitchen – Eberhart Hospitality, Inc.

Type II Action, Call for a Public Hearing on December 28, 2021 for a Special Use Permit

Vice Chair Jacyna read Senior Planner Stephanie Yezzi’s Memorandum regarding the Special Use Permit.

Special Use Permit:

It is understood, Eberhart Hospitality, Inc. has requested a special use permit for a restaurant to be located at 96 Harry L Drive. Jerry’s Kitchen will have 6 employees with the hours of Monday through Thursday 7:30 AM to 10:00 PM, Friday and Saturday 8:30 AM to 11:30 PM and Sunday 1:00 PM to 9:00 PM. The 800 square foot facility will hold 15 seats, requiring 7 parking spaces that have been located at 105 Harry L Drive per a parking agreement with the property owner. The facility will have three (3) smokers located out back in a fenced in area. The project requires 239-m review which has been sent to Broome County. At this time, the Planning Board shall only schedule a public hearing for the December 28 meeting in which the application will be discussed in full.

A motion to call for a public hearing for a Special Use Permit at 96 Harry L Drive on December 28, 2021 at 7:30pm was made by Mr. Michalak and seconded by Mr. Matyas.

Motion Carried - Vote:

Yes – 4 (Matyas, Ward, Michalak, Jacyna) **No** – 0 **Absent** – 1 (Putman)

167 Marie Street – Hanna Granowski

Type II Action, Recommendation to Zoning Board for front porch area variance

Hanna Granowski appeared on behalf of the application.

Vice Chair Jacyna read the Area Variance Review, Environmental Review, Department Head Comments and Planning Department Comments.

Area Variance Review:

It is understood, Hanna Gronowski has requested an area variance for her front porch at 167 Marie Street. The applicant has constructed a front porch that comes out approximately 7.5’ from the existing house. The front porch has replaced the previously existing ramp while still using the existing stairs. The porch leaves this portion of the property at 13.5’ from the lot line while the Zoning Law requires 25’; however, the home is classified as a pre-existing, non-conforming structure situated at 21.5’ from the lot line. The ZBA has scheduled the public hearing for the variances on December 13.



Environmental Review:

The applicant's proposal is considered a Type II Action under the NYS Environmental Quality Review Act (SEQR), requiring no further environmental review.

Department Head Comments:

This project did not require a 239-Review. See department comments below.

Code Enforcement: See Planning Department comments.

Police Department: No compelling interest.

Fire Department: No compelling interest.

Public Works & Water: No compelling interest.

Planning Department Comments:

Planning Staff recommends approval of the area variance for the front porch as it is located on a pre-existing, non-conforming lot and does not take away from the existing neighborhood character or raise any environmental concerns.

The applicant shall submit a zoning application for any future changes in size or location of the porch as well as any new additions to the building.

A motion that the Planning Board recommend approval of the area variance of the front porch at 167 Marie Street to the Zoning Board of Appeals was made by Mr. Matyas and seconded by Mr. Michalak.

Motion Carried - Vote:

Yes – 4 (Matyas, Ward, Michalak, Jacyna) **No** – 0 **Absent** – 1 (Putman)

30 Harrison Street – Bell Atlantic Mobile Systems/Nixon Peabody

Unlisted Action, SEQRA, Recommendation to Zoning Board for area variance (setbacks) and telecommunications facility Special Use Permit, Site Plan Review

Stephen Fantuzzo of Nixon, Peabody for Verizon and Tim Richmond of Verizon appeared on behalf of the project. Their goal and hope is to get the site plan approved tonight with conditions. They are up against a tight timeline. Mr. Richmond confirmed this was the only spot they felt they could relocate the pole to.

UHS is hopefully taking down the pole on December 15th and relocating it to the UHS Cancer Center.

Attorney Coughlin went through Long Form Part 2 of the Environmental Assessment Form.

Attorney Coughlin read Part 3 of the Environmental Assessment Form.

Bell Atlantic Mobile Systems of Allentown, Inc. d.b.a. Verizon Wireless submitted a proposal to construct and operate a telecommunications facility on a 46.5' wooden pole at 30 Harrison Street. The project was reviewed for any potential negative impacts to the environment, and a full E.A.F. was submitted.



The property is located in a Neighborhood Commercial zoning district, and the telecommunications facility is permitted by Special Permit from the Zoning Board of Appeals. The use will not have any impacts on wildlife, the air or ground, the floodplain, wetlands, aquifer, or archeologically sensitive areas. There is no need for access to water, sewer, storm sewer. Daily parking for the telecommunications use is not required, and maintenance vehicles can park on the street. The location is not affected by any remediation sites. There will be a temporary increase in noise and vehicular odors during construction.

- The proposed project is near an historic district, although not adjacent, and is within the viewshed of the historic Village of Johnson City Post Office. It will not affect the physical integrity of the building or site; it will not restrict any existing public access to the building or site; and it will not obstruct the view of the building or site.
- A small impact could occur if there were concerns over consistency with existing architectural and aesthetic resources; however, but the 46.5' wooden pole is similar in size and appearance to the nearby light and utility poles.
- The project design is such that no disturbances or major changes to historic structures will occur. For example, the location where archaeological resources exist will be avoided, or the historic structure on the property will be maintained and restored.
- The 46.5' pole and single-cell antenna may cause minor changes to the aesthetic or scenic quality of the area but would not destroy the historic resource or drastically change the character of the area.
- The location of the pole in an archeologically sensitive area will not affect any artifacts as the site has previously been disturbed and is part of the Village curb and sidewalk along Harrison Street.

After review, it was determined that the proposed single-cell antenna on a new 46.5-foot wooden pole will not have any significant negative impacts on the environment nor the historic district.

A motion that the Planning Board make a negative declaration for the purpose of SEQRA for 30 Harrison Street was made by Ms. Ward and seconded by Mr. Michalak.

Motion Carried - Vote:

Yes – 4 (*Matyas, Ward, Michalak, Jacyna*) **No** – 0 **Absent** – 1 (*Putman*)

Vice Chair Jacyna read the Variance Request, Environmental Review, 239-Review and Department Head Comments and Planning Board Recommendation.

Variance Request:

It is understood that Bell Atlantic Mobile Systems LLC d/b/a Verizon Wireless is applying for an Area Variance as part of their Telecommunications Facility Special Use Permit application for 30 Harrison Street. The application proposes a 10' x 10' fenced area to be leased from UHS with a 46.5' wooden pole, topped with a single antenna. Additional equipment will be placed at the bottom of the pole, within the fenced in area. The goal of this implementation is to replace a nearby monopole that will be removed with the current construction in order to fill the service gap.

Environmental Review:

The applicant's proposal is considered an Unlisted Action under the NYS Environmental Quality Review Act (SEQRA).



239-Review and Department Head Comments:

This project was subject to a 239-Review, being within 500-feet of a State Road.

B.C. Planning:

- The Village should ensure that the proposed project does not interfere with hospital heliport/helicopter operations or conflict with FAA requirements; adequately addresses other cell company sites, emissions, setbacks, variances, and lighting regulations to the extent necessary; and includes consistent information in the SEQR, site plan, and other documents. For example, the SEQR and site plan do not address the setback variance and the plans show fence heights of 6 feet and 8 feet.
- The SEQR should include the facility for children with disabilities (14-18 Broad) and the Sarah Jane Johnson Methodist Church childcare center (requested in 2020) (308 Main, 15 Baldwin, 16 Arch) unless this information is no longer accurate. See BCGIS. Attorney Coughlin recommended amending the EAF Part II to address this comment. The EAF responses for question 16 regarding “Impact on Human Health” were reviewed in full.

NYS DOT, BCHD, BCOES, BCIT: No comment.

Code Enforcement: No compelling interest.

Police Department: No compelling interest.

Fire Department: No compelling interest.

Public Works & Water: No compelling interest.

Planning Department: Planning Staff notified the applicant that they would need an area variance as the proposed pole does not meet setback requirements. The Zoning Law states that a telecommunications facility must be set back no less than the tower height from lot lines and power lines. It is recommended the applicant prove there is no other location that can meet these requirements and allow for the construction and installation of this project.

Planning Board Recommendation:

Should the applicant prove this is the only feasible location, the Planning Board voted to recommend approval of the area variance.

A motion that the review of the Impact on Human Health for 30 Harrison Street does not change the negative declaration was made by Ms. Ward and seconded by Mr. Matyas.

Motion Carried - Vote:

Yes – 4 (Matyas, Ward, Michalak, Jacyna) No – 0 Absent – 1 (Putman)

A motion that the Planning Board make a recommendation to the Zoning Board for approval of the area variance for 30 Harrison Street was made by Mr. Matyas and seconded by Ms. Ward.

Motion Carried - Vote:

Yes – 4 (Matyas, Ward, Michalak, Jacyna) No – 0 Absent – 1 (Putman)



Stephanie Yezzi confirmed the Variance Request, Environmental Review, 239-Review and Department Head Comments are same as have been read previously.

Vice Chair Jacyna read the Planning Board Recommendation.

Planning Board Recommendation:

The Planning Board voted to recommend approval of the telecommunications facility special use permit based on the need to replace the structure removed during construction.

A motion that the Planning Board recommend approval for the special use permit to the Zoning Board of Appeals for 30 Harrison Street was made by Ms. Ward and seconded by Mr. Michalak.

Motion Carried - Vote:

Yes – 4 (Matyas, Ward, Michalak, Jacyna) No – 0 Absent – 1 (Putman)

Attorney Coughlin advised if the Planning Board does decide to go forward with the site plan approval, that it be contingent upon the area variance being granted and the special use permit being granted as proposed and any changes to the site plan at the next month's meeting be subject to the degree of change language, in the event it is substantial, it will be required to come back to the Planning Board. If it is minor, Randy Shear and Bob Blakeslee would be able to determine that an house update is appropriate.

Attorney Coughlin and the Board discussed:

- Broome County comments
- Compliance with all FAA requirements

Stephanie Yezzi read additional comments regarding the site plan:

The Planning Department recommends approval of the Site Plan, contingent on ZBA approval of the area variance and Telecommunications Special Use Permit, with the following stipulations:

A. Aesthetics (§ 256.4.D)

1. The proposed tower shall be a wooden pole similar to the existing utility poles in the vicinity.
2. The proposed pole shall not be illuminated.
3. The pole shall not contain any signs or advertising devices, other than any required appropriate signage indicating ownership of the facility and phone numbers to call in case of emergency.

B. Radio Frequency; inspections (§ 256.4.E.)

1. The Village of Johnson City Planning Board shall impose a condition on the applicant that the communications antenna will be operated only at Federal Communication Commission (FCC) designated frequencies and power levels and/or Environmental Protection Agency (EPA) technical exposure limits and may periodically require that the applicant provide competent documentation to support that maximum allowable frequencies, power levels



and exposure limits for radiation will not be exceeded.

2. Unless otherwise preempted by federal or state law, the telecommunications facility shall be inspected every two years, at the applicant's expense, for radio emissions, and a copy of the report shall be promptly delivered to the Building Inspector. A licensed professional engineer specializing in electrical engineering with expertise in radio communications facilities shall perform radio emission inspections. The radio emission inspection shall describe the power density levels of the electromagnetic energy generated from the facility, including the cumulative effects of collocated antennas. In the event that the radio emission inspection indicates that the electromagnetic energy generated from the facility is above the allowable limits stated with applicable FCC or ANSI standards or other applicable federal or state guidelines in effect at the time of 3 inspection, the applicant shall cease all use of the facility until such time as it proves, to the satisfaction of the Building Inspector or pertinent Village consultant, that the power density levels of the electromagnetic energy to be generated at the facility are below the applicable standards.

C. Structural safety and verification. (§ 256-4.H.)

1. Unless otherwise preempted by federal or state law, the telecommunications facility shall be inspected every two years, at the applicant's expense, for structural integrity. A copy of the report shall be promptly delivered to the Building Inspector. A licensed professional engineer specializing in structural engineering shall perform the structural inspection. The structural inspection report shall describe the structural integrity of the facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspection indicates structural deficiencies, then the deficiencies must be remedied within the time reasonably set by the Building Inspector. Upon the applicant's failure to do so, the permit may be revoked.

D. Removal of tower. (§ 256-4.G.)

1. The applicant shall agree to remove the tower and antenna if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months. The Village of Johnson City Planning Board shall require the applicant to provide an appropriate and adequate demolition bond for the purpose of removing the telecommunications facility and restoration of the land in case the applicant fails to do so as required above.
2. The sufficiency of the demolition bond shall be confirmed at least every five years by analysis and report of the cost of removal and property restoration, which is to be performed by a licensed professional engineer, the cost of same to be borne by the applicant. If the said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

- E. The height of the telecommunications facility cannot be increased without prior approval for a special permit and site plan from the Village of Johnson City Zoning and Planning Boards. Per § 256-4. A. Tower special use permits are not assignable and nontransferable, except upon approval by resolution of the Village of Johnson City Zoning Board.



- F. Per § 256-2.B.3 Tower special use permit required. For all new, relocated or replacement towers and antennas, including DAS/microcells that do not meet the definition of a co-located/existing structure antenna, a tower special use permit shall be required
- G. Per § 256-4.I. Maintenance of telecommunications facility. All telecommunications facilities shall be maintained in good order and repair. The Village may require that reasonable records of such maintenance be kept and available for Village review upon request.
- H. Per § 256-5.A. Towers and antenna(s) may be repaired and maintained without restriction.
- I. Per § 256-6.B. In the event that there is a change in technology that alters the use of the telecommunications facilities cited pursuant to this chapter, the Village reserves the right to require a new application to be submitted, which complies with the above requisites, from all owners of such telecommunications facilities.
- J. The applicant shall be required to acknowledge all of the above stipulations, in writing, prior to the issuance of a building permit. The applicant agrees to construct the project in strict accordance with the site plan approved by the Planning Board. Should the applicant change the site plan once it has been approved by the Planning Board, even if by petition to the Zoning Board of Appeals, the site plan approval will become null and void and the applicant must resubmit a new site plan to the Village of Johnson City Planning Board.

Attorney Coughlin added this will include the other two we talked about also. He asked the Board if anyone had any questions regarding the landscaping plan.

A motion that the Planning Board approve the site plan for Bell Atlantic Mobile Systems LLC d/b/a Verizon Wireless for the telecommunications facility at 30 Harrison Street contingent upon the area variance and telecommunications special use permit being approved with the Planning Department comment stipulations included and the fence height shall be eight feet and the applicant should ensure compliance with all FAA regulations was made by Mr. Matyas and seconded by Mr. Michalak.

Motion Carried - Vote:

Yes – 4 (Matyas, Ward, Michalak, Jacyna) **No** – 0 **Absent** – 1 (Putman)

87 Main Street – Slavik & Co., Inc.

Type II Action, Area Variance for signage, Area Variance for parking lot

Vice Chair Jacyna read the Area Variance request for signage, Environmental Review, 239-Review and Department Head Comments and Planning Board Recommendation.

Variance Request:

It is understood, Slavik & Co., Inc. has requested an area variance for signage at their 87 Main Street location. The applicant proposes four (4) large wall signs, three (3) more than is allowed per the Zoning Law. The property includes a previous variance for two (2) wall signs, one (1) more than is allowed per the Zoning Law. One of the signs may constitute as a directional sign should the applicant choose to



remove their company logo; however, a size variance is still required. The ZBA has scheduled the public hearing for the variances on December 13.

Environmental Review:

The applicant's proposal is considered a Type II Action under the NYS Environmental Quality Review Act (SEQR); therefore, no further review is required.

239-Review and Department Head Comments:

This project was subject to a 239-Review, being within 500-feet of a State Road.

B.C. Planning: The building is relatively large but the requested area variances greatly exceed the allowed sign square footages. The application should explain the reasons for the proposed variances and the site plan should clearly show the allowed and proposed sign types, numbers, and square footages and previous and proposed variances. NYSDOT had not comments.

Code Enforcement: See Planning Department comments.

Police Department, Fire Department, Public Works & Water: No compelling interest.

Planning Board Recommendation:

The Planning Board voted to recommend approval of the area variance for the size of the two proposed wall signs (top of the building) each at 152 square feet each as well as the variance for the directional "Main Entrance" sign, not to exceed 20 square feet, with the condition that the business logo be removed from the design. The Planning Board recommends denial of the variance for the additional wall sign located at the back of the building under the criteria that the proposal is a substantial request and is self-created. An additional condition that all temporary signs be removed shall be added to the final decision.

Senior Planner Yezzi and the Board discussed:

- Huge sign on rear not needed
- Size of two proposed signs
- Entrance sign
- Logo

A motion that the Planning Board recommend approval of the area variance for the size of the two proposed wall signs and the variance for the directional "Main Entrance" sign, not to exceed 20 square feet, with the condition that the business logo be removed from the design and recommend denial of the variance for the additional wall sign located at the back of the building to the Zoning Board of Appeals for 87 Main Street was made by Mr. Michalak and seconded by Ms. Ward.

Motion Carried - Vote:

Yes – 3 (Ward, Michalak, Jacyna) **No** – 1 (Matyas) **Absent** – 1 (Putman)

Vice Chair Jacyna read the Area Variance request for special parking lot, Environmental Review, 239-Review and Department Head Comments and Planning Board Recommendation.



Variance Request:

It is understood, Slavik & Co., Inc. has requested an area variance for a parking lot addition to be located at the building entrance near Brigham Street. The street is owned by the Village; however, the concern is the probability of vehicles backing into Brigham Street. The Zoning Law prohibits maneuvering space in a public road. The proposed layout for the driveway includes a curb cut that is greater than the maximum 24'. The ZBA has scheduled the public hearing for the variances on December 13.

Environmental Review:

The applicant's proposal is considered a Type II Action under the NYS Environmental Quality Review Act (SEQR).

239-Review and Department Head Comments:

This project was subject to a 239-Review, being within 500-feet of a State Road.

B.C. Planning:

- GML Section 239-1 (b) 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 thorough fare facilities
 - There are concerns about to traffic safety impacts from the parking lot design. (see attached BMTS and DOT comments for details).
 - BMTS is particularly concerned with safety impacts of backing out from the parking lot across the sidewalk and into Brigham Street.
 - NYSDOT states that the proposed driveway location and configuration does not conform to NYSDOT standards for driveway spacing from State highway intersections and the proposed parking area configuration may result in safety concerns for pedestrians and vehicles using Brigham Street, as vehicles will be required to back across a sidewalk and into the roadway.
- GML Section 239-1 (g) Official municipal and county development policies, as may be expressed through comprehensive plans, capital programs or regulatory measures
 - There may be conflicts with the Village off-street parking regulations.
 - See Section 300-51.1 A. Ensure that any parking area or facility is designed to provide proper circulation, reduce hazards to pedestrians,
 - Section 300-51.7. Design Standards A. (1) Aisle width shall be a minimum of 24 feet. B. (1) The parking space shall be at least nine feet wide and 18 feet long. D any vehicle entering a public right-of-way shall do so traveling in a forward motion.

BMTS:

- The proposed parking lot does not appear to meet the Village of Johnson City's Zoning Code design standards for Off-Street Parking. BMTS is particularly concerned with safety impacts of backing out from the parking lot across the sidewalk and into Brigham Street.

NYSDOT:

- The proposed driveway location and configuration does not conform to standards for driveway



spacing from State highway intersections, as outlined in the NYSDOT Policy and Standards for the Design of Entrances to State Highways. Per this policy, the edge of a driveway shall be located no closer than twice the driveway width plus 15 feet from the edge of the traveled way of the intersecting roadway. This provision is detailed on page 5A-28 (Note 1E) of the above policy document, which can be found at www.dot.ny.gov/permits.

- The proposed parking area configuration may result in safety concerns for pedestrians and vehicles using Brigham Street, as vehicles will be required to back across a sidewalk and into the roadway. Additionally, construction of parking facilities that require vehicles to back into the public right-of-way may be prohibited by Village codes.

Code Enforcement: See Planning Board recommendation.

Police Department: No compelling interest.

Fire Department: No compelling interest.

Public Works & Water: No compelling interest.

Planning Board Recommendation:

The Planning Board voted to recommend denial of the area variance for the proposed parking area based on comments received from NYSDOT regarding the design of entrances near state highway intersections. The variance is a substantial request that will potentially impact local traffic. Need for the variance is also self-created.

The Board discussed:

- Grade of the parking lot
- Driveway spacing at intersections
- Design standard

A motion that the Planning Board recommend to the Zoning Board denial of the area variance for the proposed parking area for 87 Main Street was made by Mr. Matyas and seconded by Ms. Ward.

Motion Carried - Vote:

Yes – 4 (Matyas, Ward, Michalak, Jacyna) **No** – 0 **Absent** – 1 (Putman)

ADJOURNMENT

A motion to adjourn the Planning Board Meeting was made by Mr. Matyas and seconded by Mr. Michalak.

The meeting was adjourned at 8:53 pm.

Respectfully submitted,

Kim Cunningham
Planning Board Clerk

