

Minutes of a regular meeting of the  
Johnson City Planning Board held on  
February 27, 2018 at 7:30pm at  
243 Main St., Johnson City, NY

Present: Gerald Putman, Chairman  
Andrew Holbert, Vice Chairman  
Donald Slota  
Greg Matyas  
Mary Jacyna

Also Present: Kim Cunningham, Temporary Clerk to the Planning & Zoning Boards  
Nate VanWhy, Attorney for the Village  
Marina Lane, Town of Union Senior Planner  
Mayor Greg Deemie  
Richard Lambert, ExteNet  
Laura Intscher, Architect, Secret Base Design

A brief work session was held at 7:00pm. The board discussed the agenda and reviewed the applications.

Chairman Putman called the meeting to order at 7:30pm & noted the emergency exits.

**MINUTES**- A motion to approve the minutes from the September 26, 2017 meeting and the January 23, 2018 meeting was made by Mr. Holbert and seconded by Mr. Slota. The motion passed with all those present voting in the affirmative.

**PRIVILEGE OF THE FLOOR** - None

**COMMUNICATIONS** - None

**CONTINGENCIES** - None

**OLD BUSINESS** – Electing officers for 2018 Planning Board

A motion was made to nominate Mr. Gerald Putman as Chairman, Mr. Andrew Holbert as Vice Chairman and Mr. Gregory Matyas as Secretary. The motion carried with all those present voting in the affirmative.

**NEW BUSINESS**

**United Social Adult Daycare - 228 & 224 Grand Avenue**

Lead Agency, Unlisted Action, SEQRA & Site Plan Review

Sher Khan submitted an application to open an adult day care facility at 228 Grand Avenue with a parking lot at 224 Grand Avenue. They will be making a slight modification to the interior up. Laura Intscher, a registered architect at Secret Base Design, was present on behalf of the application.

*Discussion:* Chairman Putman questioned whether the facility will be doing any cooking or dish washing. Ms. Intscher stated they will not do any food preparation, they will be catering all meals, and



they will use disposable containers. Chairman Putman asked how many parking spaces there are. Ms. Intscher explained they are working with the existing parking lot which has 11 parking spaces. There is a handicapped parking space which they will get a sign for.

Mr. Holbert questioned if there are any parking requirements for the warehouse. Ms. Intscher explained the warehouse is vacant and the daycare will have one space per employee. If the owner should find someone to use the warehouse, they would be restricted by the number of parking spaces still available.

Chairman Putman inquired about trash removal. Ms. Intscher was unsure whether they have a dumpster or if they have municipal trash removal.

Mr. Slota asked how many clients they will have per day. Ms. Intscher stated that they will have 20-24 per day.

Chairman Putman explained that a SEQR Short Environmental Assessment Form has been prepared and reviewed. The Board, having reviewed Part I, Part II and Part III of the SEQR Short Environmental Assessment Form, has determined that there will not be any significant adverse environmental impacts with respect to the project.

A motion to accept a negative declaration for the project at 228 Grand Avenue was made by Mr. Holbert and seconded by Mrs. Jacyna, finding that the proposed action will not have a significant adverse environmental impact and authorizing the Chairman to sign the Negative Declaration.

*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Holbert, Slota, Putman) No – 0 Absent – 0*

*Discussion:* Chairman Putman questioned whether it is a drop-in location or will people register to use this facility. Ms. Intscher responded that it will primarily be consistent registers, but it is also open for a drop-in. There will be a daily fee.

Mr. Slota inquired about owner Sher Khan being from Brooklyn and whether there will be someone running the facility, and if there is a need for licensing. Ms. Intscher explained it is not a medical based day care, but a social day care, so licensing is not necessary.

Chairman Putman read the department head comments:

### ***I. Site Plan Review***

Sher Khan has applied to open an adult daycare facility at 228 Grand Avenue with a parking lot at 224 Grand Avenue. The two-story commercial building is currently vacant. Mr. Khan plans to use 2,190 square feet of the first floor for adult daycare activities for approximately 25 clients. The property is located in a Neighborhood Commercial zoning district and an adult daycare facility is a permitted use. The daycare use requires 7 parking spaces, 4 parking spaces for clients, and 3 for staff. Currently there are 11 parking spaces including one handicapped accessible space. The applicant proposes to remodel the existing building only by removing two interior walls to remove two offices and create a more open space for the clientele. There will be no exterior work on the property. The hours of operation will be Monday through Friday, 9:00 am to 4 pm. There will be three employees during business hours, and one evening cleaning staff. Pre-prepared food will be served, but there will no cooking on the premises.



## ***II. Environmental Review***

Under the requirements of Section 617.7(c), the proposed action was examined by the Short Environmental Assessment Form, is considered an unlisted action, and the Planning Department recommends a Negative Declaration under SEQRA. As there will no exterior work, a stormwater plan was not required.

## ***III. Department Head Comments***

- Code Enforcement:
  - The parking lot at 224 Grand Avenue was approved in 1992 and is grandfathered.
  - A handicapped-accessible sign is required.
  - Plans for all interior improvements shall be submitted to the Building Official for review prior to any related work.
  - The applicant shall use plumbing and electrical contractors licensed by the Village of Johnson City, and they shall apply for appropriate permits.
  - The two properties shall be combined by March 31, 2018.
  
- Public Works/Water Department
  - In accordance with NYS Department of Health, Bureau of Water Supply Protection and section 5-1.31 of the NYS Sanitary Code, a backflow prevention device is required on the water service and must be tested by a certified backflow device tester prior to the issuance of the Certificate of Compliance, and at least once annually.
  - The floor plan shall be revised, and submitted to the Kim Cunningham, indicating the location of the existing water meter and the proposed backflow prevention device prior to the issuance of the Certificate of Compliance.
  
- Fire Dept:
  - The Fire Marshall shall do an inspection prior to the issuance of a Certificate of Compliance. Call him at (607) 729-9512 for the inspection.
  - Following that inspection, contact the Municipal Fire Code Inspector at (607) 786-2920 to schedule the issuance of a Certificate of Compliance.
  - The building shall not be used for the adult daycare center until the Certificate of Compliance has been issued.
  
- Police Department: No Compelling Interest

## ***IV. Planning Staff Recommendation:***

The staff recommendation is to approve the site plan, with the following stipulations:

1. One of the two restrooms shall be handicapped-accessible, prior to the issuance of any Certificate of Compliance. Modification of the restroom may require the issuance of a building permit.
2. Per NYS law, the day care facility must be inspected by the Municipal Fire Code Inspector every year. It is your responsibility to coordinate that inspection by calling the Code Enforcement office at (607) 786-2920. The initial inspection shall be completed prior to the issuance of a Certificate of Compliance.



3. If a sign is desired, the applicant shall apply for a sign permit from the Building Official prior to posting the sign. All temporary signs (including price signs), portable signs, search lights, balloons, sidewalk and curb signs shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. Signs that blink, rotate, or move are not permitted.
4. Site plan approval shall be valid for one year, unless substantial improvements have been made pursuant to the approved site plan.
5. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a building permit or Certificate of Compliance, whichever shall come first. The applicant shall agree to follow stipulations of approval in strict accordance with the site plan approved by the Planning Board. Should the applicant change the site plan approved by the Planning Board, even if by petition to the Village's 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.

*Discussion:* Ms. Lane questioned whether we should include the following two points in the stipulation.

- Caterers should be required to have permits from the Broome County Health Department
- Drop off for clients will be at the entry door on the paved area on Harrison Street. It is a level area.

A motion to approve based on the recommendations of modifying the site plan accordingly including department staff comments was made by Mr. Matyas and seconded by Mr. Holbert.

*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Holbert, Slota, Putman) No – 0 Absent – 0*

**ExteNet Systems – 75-79 Riverside Dr., 72 & 250 Margaret St., 261 Burbank Ave.**  
**Lead Agency, Unlisted Action, SEQRA & Site Plan Review**

ExteNet Systems, Inc. submitted an application for Site Plan review to propose mounting small cell antennas onto utility poles in the rights-of-way in the Village at 75-79 Riverside Drive, 261 Burbank Avenue, 72 Margaret Street and 250 Margaret Street.

Richard Lambert and Patrice Burnett were present on behalf of the applicant.

Chairman Putman reviewed the Full Environmental Assessment Form, Parts 1, 2 and 3 with the Planning Board members. Part 2 identified possible impacts on energy and human health. Energy consumption is extremely small, and there are no impacts on the human health.

A motion to approve a negative declaration for the ExteNet project at the four locations 75-79 Riverside Drive, 261 Burbank Avenue, 72 Margaret Street and 250 Margaret Street was made by Mr. Holbert and seconded by Mr. Slota.

*Motion Carried - Vote:*

*Yes – 5 (Matyas, Jacyna, Holbert, Slota, Putman) No – 0 Absent – 0*



*Discussion:* Chairman Putman questioned whether ExteNet is going to install the equipment. Ms. Burnett stated they subcontract the work out to NYSEG-approved contractors, but ExteNet is responsible for the work. Chairman Putman responded that the approved contractor will replace the poles and put all the equipment on the poles; NYSEG will inspect the work and if it meets with their approval, they will grant a license for the system. Ms. Burnett confirmed. Chairman Putman asked if there are primaries on all poles and if they are between the primary and secondary. Ms. Burnett thought that there are primaries on the majority of the poles. They are located at the top of the antenna, six inches below secondary.

Mr. Slota was concerned with the locations at Riverside Drive and Margaret Street in that the poles take quite a beating with people driving off the road and hitting them. Ms. Burnett stated that ExteNet will be the first to know because they will be monitoring their equipment. If a pole is down, it will need to be taken care of within 24 hours. NYSEG owns the pole, and ExteNet will be responsible for replacing their own equipment.

Chairman Putman asked “If there is a street light on the pole, does the canister hang on the inside or over the road?” Ms. Burnett responded that NYSEG tells them where to put the canister and typically they are placed perpendicular to the curb. After NYSEG tells them where they need to go, they do more testing for coverage. Typically they do not have to move them after placed. Leaves, trees and buildings affect the coverage.

Chairman Putman read the department head comments.

**A. Site Plan Review:**

ExteNet Systems, Inc., works with wireless communication providers to facilitate the installation and implementation of small cell networks that help to support existing facilities with areas of poor coverage that do not warrant a full-size telecommunications tower. These small cell networks are referred to as distributed antenna systems (DAS).

ExteNet is working with Verizon Wireless to enhance the coverage in the City of Binghamton and the lower east side of the Village. They propose mounting four small cell antennas onto utility poles in the rights-of-way in the Village. Telecommunication facilities in the Village of Johnson City require a special permit from the Zoning Board of Appeals (ZBA), followed by site plan review by the Planning Board. The Village Board of Trustees approved a Rights-of-Way Agreement on January 16, 2018.

**B. Environmental Summary:**

The applicant’s proposal is considered an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA). A Full Environmental Assessment Form (EAF) is required for the review of telecommunication facilities, per Code. The ZBA declared themselves Lead Agency in an uncoordinated review under SEQRA, specifically for the special permit to allow the telecommunication facilities, and approved the Special Permit on February 12, 2018. The Planning Board, in an uncoordinated review, has declared Lead Agency for the site plan review. Planning staff recommended the Planning Board make a Negative Declaration, the determination that the project will not have significant negative environmental impacts.



**C. Department Head and 239-Review Comments:**

- Code Enforcement: No Compelling Interest.
- Public Works/Water Dept: No concerns. Satisfied that the NYSDOT has commented on the pole that is in their right-of-way.
- Fire Dept: No Compelling Interest
- Police Department: No Compelling Interest
- Broome County Planning: The Planning Department has reviewed the above-cited case and has not identified any significant countywide or inter-community impacts associated with the proposed project; however, we have the following comment:
  - The site plan should reference the required sidewalk improvements and any landscaping replacement.
- NYS DOT: The Region 9 Site Plan Review Committee has reviewed the case and has the following comments:
  - The installation of the unit located at 75 Riverside Drive in the Village of Johnson City will require the issuance of a PERM 32 Highway Work Permit for utility connections within the State right-of-way. The applicant may contact the NYSDOT Region 9 Permit Office at (607) 721-8082 or visit [www.dot.ny.gov/permits](http://www.dot.ny.gov/permits) for more information;
  - As part of the PERM 32 application, the applicant will be required to submit a plan for work zone traffic control.

**D. Planning Staff Recommendations**

The following recommended stipulations of approval incorporate relevant portions of the lease agreement, and relevant sections of the Telecommunications code. The Planning Department recommends the Planning Board approve the site plan for the telecommunication facilities with the NYS DOT requirements and the following stipulations:

**1. The title sheet of all site specific site plans shall be revised as follows:**

Revise General CML Notes, #6, with the following:

"All existing active sewer, water, gas, electrical, and other utilities, which interfere with the execution of the work, shall be relocated only with the approval of the governing utility."

**2. Construction**

- A. Village Approval. Prior to commencing construction, ExteNet shall identify to the Director of Public Services those portions of the Village's Rights-of-Way that ExteNet desires to access and/or occupy. The Director of Public Services shall notify ExteNet in writing of his or her approval or disapproval of ExteNet's proposed construction plans and Attachments.
- B. Avoidance of Interference. ExteNet agrees that the placement, installation, construction, maintenance, operation, replacement and removal of Equipment installed in Village Rights-of-Way and its Attachments to Utility Infrastructure shall be carried out in such locations and in such manner so as not to unreasonably interfere with water,



gas, sewer pipe, traffic signal, street light and other utilities and conduits already existing.

- C. Permits. ExteNet agrees to obtain all necessary excavation or encroachment permits setting forth time, place and manner restrictions necessary to protect the health, safety and welfare of the public, prior to commencing construction required for Equipment Attachment in the Village's Rights of Way.
- D. Ground-Mounted Cabinets. If a portion of ExteNet's Equipment, not including antennas, cannot be accommodated on Utility Infrastructure, ExteNet may place such equipment in above-ground equipment cabinets located in the Rights-of-Way. In no instance shall the installation of any of ExteNet's Equipment in ground-mounted equipment cabinets block pedestrian walkways in the ROW, result in violation of the Americans with Disabilities Act, or otherwise interfere or obstruct the public's use of the ROW.
- E. Compliance with Law. When placing, installing, constructing, maintaining, operating, removing or relocating Equipment in Village Rights-of-Way, or making Attachments to Utility Infrastructure, ExteNet shall comply with all applicable federal, State, and local statutes, regulations and orders, including but not limited to the National Electric Code (NEC) and/or National Electric Safety Code (NESC). ExteNet shall also comply with all Village technical specifications and requirements.
- F. Restoration. If the placement, installation, construction, maintenance, operation, removal or relocation of Equipment or poles by ExteNet disturbs or alters any Village Rights-of-Way, ExteNet, at its own expense, shall restore such Village Rights-of-Way to their original condition, normal wear and tear excepted.

### **3. Maintenance**

- A. Proper Maintenance. ExteNet shall maintain its Equipment and poles located in Village Rights-of-Way and its Attachments in such condition that they shall not constitute a danger to the health, safety and welfare of the public, or otherwise obstruct the public's use of the ROW.
- B. Right of Entry. ExteNet may enter upon Village Rights-of-Way to maintain or repair Equipment or poles from time to time, subject to its compliance with any local law or regulations requiring work permits and.
- C. Removal or Replacement of Equipment. ExteNet may remove or replace any items of Equipment as reasonably required in connection with the ongoing provision of Services with prior approval of Village's Director of Public Services, so long as any replacement Equipment is substantially the same as that which has been removed with regard to size, weight and physical configuration.

### **4. Relocation of Equipment**

- A. Notice. Village may request relocation of ExteNet's Equipment by delivering written notice to ExteNet identifying the need for such relocation and alternative Village



Rights-of-Way to which ExteNet may relocate its Equipment.

- B. Timeframe. After receiving notice, ExteNet shall relocate its Equipment to alternative Village Rights-of-Way identified by Village as soon as practicable, but in no event sooner than one-hundred and eighty (180) days after receipt of such notice, unless ExteNet is ordered to do so in accordance with applicable law. ExteNet and Village may mutually agree to relocation of Equipment in less than 180 days to respond to emergencies or other similar extraordinary circumstances.
  
- C. Cost of Relocation. In the event relocation of Equipment is necessitated by construction, repair, maintenance, relocation or elimination of any Village Rights-of-Way, the Village will waive any fees required for such relocation. Notwithstanding any other provision hereof, in the event that Village or the State enacts an ordinance, law or regulation requiring that all aerial (e.g., pole-mounted) wires and cables in some or all of the geographic area of the Village be relocated to underground installations in the ROW, ExteNet shall be permitted to participate in any joint build program for underground installation of telecommunications and other compatible utility wirelines and cables and to pay only its reasonably determined proportional share of the cost of all such relocations covered by the joint build program.

## 5. Security

Not less than ten (10) business days prior to the first installation of ExteNet Equipment within, over or under the Village's ROW, ExteNet shall provide the Village with security for the proper removal of such Equipment and restoration of such ROW in the form of a bond in the amount of One Thousand (\$1,000.00) Dollars per pole or as reasonably required by the Village Planning Board in its approval pursuant to Section 2.1. The Bond shall be in a commercially reasonable form or a substantially equivalent replacement shall be maintained in effect throughout the term of this Agreement, subject only to adjustments to the amount to reflect changes in the number of Attachments or Poles in the portion of the Village's ROW occupied by ExteNet.

## 6. Site Plan Review Requirements for Future Modifications

- A. Collocated/existing structure antennas and modifications to existing towers/antennas, approvals, submittal and requirements.
  - (1) Approvals. A collocated or existing structure antenna is permitted without a tower special use permit upon issuance of site plan approval and a building permit. DAS/Microcell applications that meet the definition of a collocated/existing structure antenna shall only require minor site plan approval and a building permit. The applicant shall also be responsible for all reasonable costs incurred by the Village in reviewing and analyzing an application, including but not limited to, any engineering or technical reports or studies submitted by the applicant relative to its application and any legal fees related thereto. As a condition of approval, the approving department or board may require a removal bond.



- (2) Submittal and bulk requirements. The site plan and building permit application shall include the following:
- (a) The complete site plan by a licensed engineer.
  - (b) A short Environmental Assessment Form (EAF).
  - (c) A structural analysis/report certified by a licensed professional engineer or architect, verifying the ability of the structure to handle the antenna.
  - (d) Certification by a qualified radio frequency engineer (signed and sealed by a licensed professional engineer or architect) that the cumulative emissions from all antennas proposed to be located at the proposed site meet federal guidelines.
  - (e) The height of any new antenna shall extend no more than 15 feet above the height of the existing structure subject to NYSEG requirements.
  - (f) The antenna and any mounting structure and related equipment shall be integrated into said structure in such a manner as to minimize its visual impact to the greatest extent practicable.

7. **NYSEG License required.** A copy of the license issued by NYSEG following installation shall be submitted to the Department of Public Works within two weeks of issuance. At the time that any future site plan review application is submitted, if a copy of the license is not on file with the Village, the site plan application will not be processed until one is submitted.
8. **Tower special use permit required.** For all new, relocated other than by Village request, or replacement towers and antennas, including DAS/Microcells that do not meet the definition of a collocated/existing structure antenna, a tower special use permit shall be required.

*Discussion:* Ms. Lane confirmed that Ms. Burnett said they would notice within 24 hours of a pole being hit and they can't move their equipment until the pole is replaced. They would send dispatch out and find the problem. If a pole needs to be replaced, NYSEG would replace and ExteNet would be responsible for moving their equipment over.

A motion to approve the Site Plan for ExteNet Systems at 75-79 Riverside Drive, 261 Burbank Avenue, 72 Margaret Street and 250 Margaret Street, including department head comments and planning staff recommendations, was made by Mr. Holbert and seconded by Mr. Matyas.

*Motion Carried - Vote:*

*Yes – 5 (Holbert, Slota, Matyas, Jacyna, Putman) No – 0 Absent – 0*

## **ADJOURNMENT**

The meeting was adjourned at 8:39pm.

Respectfully submitted,

Kim Cunningham  
Planning Board Clerk

