

## Minutes

### Village Planning Board

October 14, 2014

A meeting of the Village of Horseheads Planning Board was held on the above date at 5:15 p.m. in Village Hall. Present were:

#### Board Members

Chairman Mike Stenpeck  
Doug Baker  
Bill Goodwin  
Dave Helsing  
Bob Young  
Tom Rupp - Alternate

#### Village Staff

Village Mgr. Walt Herbst  
Manager's Assistant Rachel Baer  
Trustee Ron Swartz  
Trustee Mike Skroskznik  
Trustee Caitlin McGurgan  
Village Atty. John Groff  
Dave Radin - ZBA Chair  
Louise McIntosh - ZBA  
Lew VanDuzer - ZBA  
Hank Corp - ZBA  
Fire Chief Arthur Sullivan

#### Others

Robert Burgdorf - Nixon Peabody  
John Engleberg - Verizon  
Brett Morgan - Verizon  
Paul Dugan - RF engineer

Mike Swasta, Watkins Road

#### NYNEX, Verizon - Cell Tower Application - 130 N. Main Street (cont'd review)

Mr. Burgdorf, of Nixon Peabody, began the presentation.

Verizon is a public utility, responsible for providing wireless services throughout the US. Right now we have inadequate service in Horseheads north/south. Only way to remedy is to install a transmission facility. Like a honeycomb of cells. Tower goes in center to broadcast. Idea is to place it so it meets design network of other cells. Needs to be near center of cell. This is two-way transmission. Phone has to be able to talk back to tower, and concentrate signals around population centers. This adds up to being extremely limited as to how to place it within the network. Based on that the engineers design a search area and start building on the computer to see where it should be placed. Doesn't say that something outside the area won't work, but this is more like the bulls eye.

Rooftops are always our first choice, then industrial areas, then residential if needed. We try to keep it under 200 ft. It's a free standing pole - no guide wires. 104' mono pole. At the base is a small equip shelter. Surrounded by fence.

Propagations. (showed map). Blue shows adequate service areas. Trying to get adequate signal to all areas as well as overlap to Pine Valley tower and Hhds, south to meet capacity issues. It's not just voice only.

This requires a use and area variances. We responded to Villages questions in writing. Two alternate sites didn't work. Couldn't find better solution than proposed site.

Chairman Stenpeck - why a use variance.

Mr. Burgdorf - we believe so based on your code and discussions with village. I note that for cell towers its somewhat mute. Case law citings show that these are treated as public utilities for the purposes of zoning. As long as it's necessary to provide adequate service.

Atty. Groff - I agree with what Bob has said. There are questions on whether it's necessary for adequate service. Whether you're comfortable with their definition of what that is.

Chairman Stenpeck - what is difference between essential service and public utility.

Mr. Burgdorf - state regulations. At one level you are a public utility. For our purposes we are a public utility. Also relative to prices charged.

Chairman Stenpeck - how will this help cell service.

Mr. Burgdorf - signal levels are inadequate You get signal from Pine Valley or Horseheads south cell tower. Your drawing away from those areas. With the way technology is moving forward with data, etc. we need in-building penetration. Which is not adequate at this time. This would relieve capacity issues.

4g describes LTE technology for data purposes. Google maps, gps, most voice traffic is still in 3G but will transition to 4G.

Dave Helsing - how much of Chemung Co. is on 4G right now.

Mr. Engleberg - don't have any numbers. Ultimately we want all areas to get to 4G. Other objective is that all new phones now are 4G.

Chairman Stenpeck - what about power needs.

Mr. Engleberg - it's a single phase 200 amp service - like a single family home.

#### Safety -

Mr. Burgdorf - icing is never an issue. If there was we'd have to deal with it - but we've never had a problem. If there was some ice accumulation it would fall within the site. As for structural safety, its built to withstand 100 mph gusts with coating of ½ radial ice. At the same time. Municipal engineers will say you'll be more worried about light poles coming down, etc.

#### Lighting -

Mr. Burgdorf - under 200 ft. so lighting is not required. Only lighting would be on equip shelter - motion activated.

Flood Plain -

No problem working through flood plain.

Alternate Sites -

Chairman Stenpeck - why couldn't the Holding Point be a location. It's already zoned industrial.

Mr. Burgdorf - it's not an issue of what its zoned. For us it's an issue of location. We have to stay near the search area. That site would be too far north.

Mr. Engleberg - if we used that site then service would be degraded at the south end.

Dave Radin - I have heard many people with 4G say they never a problem. So your saying it has to be dead center on that spot - and 100 yds. either way would ruin it. When you describe this effective area it seems so small.....doesn't compute.

Mr. Burgdorf - if you are getting service it's still bad. Your drawing away from Pine Valley tower or Hhds. south cell. That's one reason. Also coverage issues. Why would company build if they didn't need it. This is the strength they need for data and voice. We've already looked at two other sites. As long as it will work we don't care where it goes. We thought this was the best area. But we'll look at any other area. Both alternate sites suggested are pretty far from the search area.

Paul Dugan, independent radio frequency engineer. I provide reports to support application. To determine where they need new facilities. For coverage and capacity reasons. Right now there are varying degrees of unreliable service. Not to say you can't make calls. Verizon has a target threshold level that they need to achieve in order to continue to support 4G devices that people rely on. High speed internet services, enhanced 911, data, text, video, voice, etc.

(Showed map of alternate sites)

E. Mill St. site pulls coverage down. The proposed location will have far better reach into core areas. And also relieve capacity on two existing towers.

Water tank site also had same problem. Doesn't effectively serve. Well over a mile to the NW. Completely misses coverage on south side of Horseheads.

Atty. Groff - please define adequate service.

Mr. Dugan - ability of subscriber to access land base network. All high speed data services. Verizon needs to have a sufficient target signal level.

Atty. Groff - why is ball field on E. Mill St. not adequate.

Mr. Dugan - doesn't reach areas that exist that Verizon is attempting to reach.

Atty. Groff - there is already service in these areas. It's not as if there is no service. Did you establish any dropped calls.

Mr. Burgdorf - from a capacity standpoint its future needs as opposed to current needs. To meet demands in the future. There may be dropped calls now or not.

Atty. Groff - what about drive test data?

Mr. Burgdorf - this data is computer generated - topography, etc. They don't drive test anymore.

Mr. Engleberg - We have to get ahead of curve to avoid coverage issues down the road.

Mr. Burgdorf - getting the signal broadcast out as far as possible is not the goal. This is two-way broadcast. We'd be happy to move it. We don't care where it is - as long as it works.

#### Other Discussion -

Mike Swasta, Watkins Road - the Village should require liability insurance for life of the tower.

Mr. Burgdorf - we can provide specs for structure. If it does collapse - and there are no Verizon towers that have ever come down - but they can be built with a break point so they fall to half their height. As far as insurance there is no legal requirement to name Village as additional insured. But I'm not sure if Verizon would have any objection.

Trustee McGurgan - there must be some level of 'green area' that is acceptable to Verizon on the map.

Atty. Groff - is there another facility your proposing south of here.

Mr. Engleberg - another tower on east side of I86 in Elmira, on Crane Road. Just activated. Another on rooftop in city of Elmira. Also working on one by Arnot Mall.

Mr. Burgdorf - Need a lot of bandwidth - cell traffic has to go both ways - and be reused over and over.

Atty. Groff - why not two smaller towers.

Mr. Burgdorf - have to clear bldgs and trees. Also phone company won't duplicate cost for two towers. Doubles the cost.

Atty. Groff - perhaps we can suggest some alternative locations now that we understand what you are trying to accomplish.

Disc. Ensued.

Mr. Burgdorf - if you have an alternate site please get to use as soon as possible. Closer to search area better chance for success.

Chairman Stenpeck - the Village Board approved hiring an independent consultant for us.

Mr. Burgdorf - we are happy to meet with whatever engineer you hire and go over our data. Verizon takes 30-45 days to get money in escrow.

Chairman Stenpeck - use variance? You have to give us financial evidence on realizing reasonable return on property.

Mr. Burgdorf - ordinarily correct. Use variance is the hardest approval in zoning. In this case that's why courts deem us as public utility for the purposes of zoning. Rosenberg standard. We would not be submitting dollars and sense proof on this.

Atty. Groff - he is correct.

Chairman Stenpeck - where does moratorium fit in.

Atty. Groff - it also provided that an application could still be submitted during moratorium period.

Mr. Burgdorf- its 150 days to get to final decision.

Atty. Groff - I've been instructed by the Manager to help find an independent engineer. As soon as I have information I will report it.

Dave Helsing - is engineer assuming role of examining alternative sites.

Atty. Groff - no - just reviewing all technical data. The Village Manager and Code Enf. Officer should review a list of sites and provide to the applicant.

Atty. Groff - backup generator - materials you supplied talked about different decibel readings. But nothing about which they would propose.

Mr. Engleberg - It's a 12 x 30 shelter. The generator is inside the shelter. No need for an additional enclosure.

The Board agreed to meet again on its regular meeting night of October 28, with another possible meeting in November if necessary. To give independent engineer time to review all the data.

As there was nothing further to come before the Board, the meeting was closed at 6:39 p.m.

/rmb