

**MINUTES OF A MEETING OF THE
VILLAGE OF AVON ZONING BOARD OF APPEALS
THURSDAY, APRIL 19, 2018
6:00 PM; VILLAGE HALL, WHITNEY ROOM**

I. ATTENDANCE

Daniel Freeman, Chairman
Christopher Conine
James Gerace

GUESTS

Nathan Vander Wal, Esq. Nixon Peabody LLP (Verizon Wireless)
Colin Fazio, Pyramid Network Services (Verizon Wireless)
Jack Beers, Empire Access

ABSENT

Richard Hite
Ernest Wiard

QUORUM, 3 Present, 2 Absent

STAFF

Reid A. Whiting, Village Attorney
Anthony Cappello, Code Enforcement Officer
Lance Brabant, Sr. Planning Associate, MRB Group
Gary Margiotta, Deputy Clerk

III. OLD BUSINESS

A. Special Use Permit Application
Bell Atlantic Systems of Allentown, Inc.
d/b/a Verizon Wireless
1275 John Street, Suite 100
West Henrietta, NY

Nathan Vander Wal, Esq., Nixon Peabody LLP
Colin Fazio, Pyramid Network Services

Verizon had applied for special use permits to construct and operate micro wireless communication facilities on 34-foot wooden utility poles within the Village-owned rights-of-way near 180 Clinton Street and 220 Collins Street to contend with "hot spots."

Freeman opened the meeting, asking the Verizon representatives to answer the questions posed at the meeting of March 29.

The questions, Vander Wal recalled, had to do with the short Environmental Assessment Forms (EAF). The forms for both sites had been marked as archeologically sensitive areas, but, the attorney, contended no further review was required.

Anything in the right-of-way would have been disturbed previously, Brabant explained.

On Dream Valley Boulevard (the 220 Collins Street site), the Board had noted the light poles in the Avon Commons subdivision were 16-foot tall, black, fiberglass poles with colonial, lantern-style lights and the question had been raised, could Verizon install a black, metal or fiberglass pole.



In a written response, Vander Wal said Nixon Peabody had conferred Empire Telephone, the local exchange service provider who would install the pole, about alternatives to the wooden pole they'd proposed. Empire, according to Vander Wal, had said they didn't install other types of poles whether metal, ornamental or otherwise, but, Vander Wal added, Empire could stain the pole black.

A fiber glass pole was available, but it wasn't tall enough, Fazio said, noting fiber glass only went as tall as 34-feet.

A few Board members pointed out Verizon had proposed a 34-foot pole, topped by a 4-foot, 7-inch antenna, but Vander Wal said Verizon had planned on using a 45-foot pole with seven feet buried.

With regards to Verizon's 180 Clinton Street site (Avon High Site), Vander Wal, in his written response, said the School District had been contacted, but had not reciprocated Verizon's interest in siting the project on school property. The School District would, reportedly, be the primary beneficiary of the project.

No other alternative with the pole? Freeman asked.

Alternatives did exist, but their contractor had advised them they didn't install other types of poles, Vander Wal reiterated.

The 34-foot fiberglass pole could be used with a foundation, Conine pointed out.

That might be cost-prohibitive, Fazio responded.

With what he had suggested, Conine said the pole wouldn't be direct-buried, there would be a galvanized steel foundation and the pole would sit on top of that.

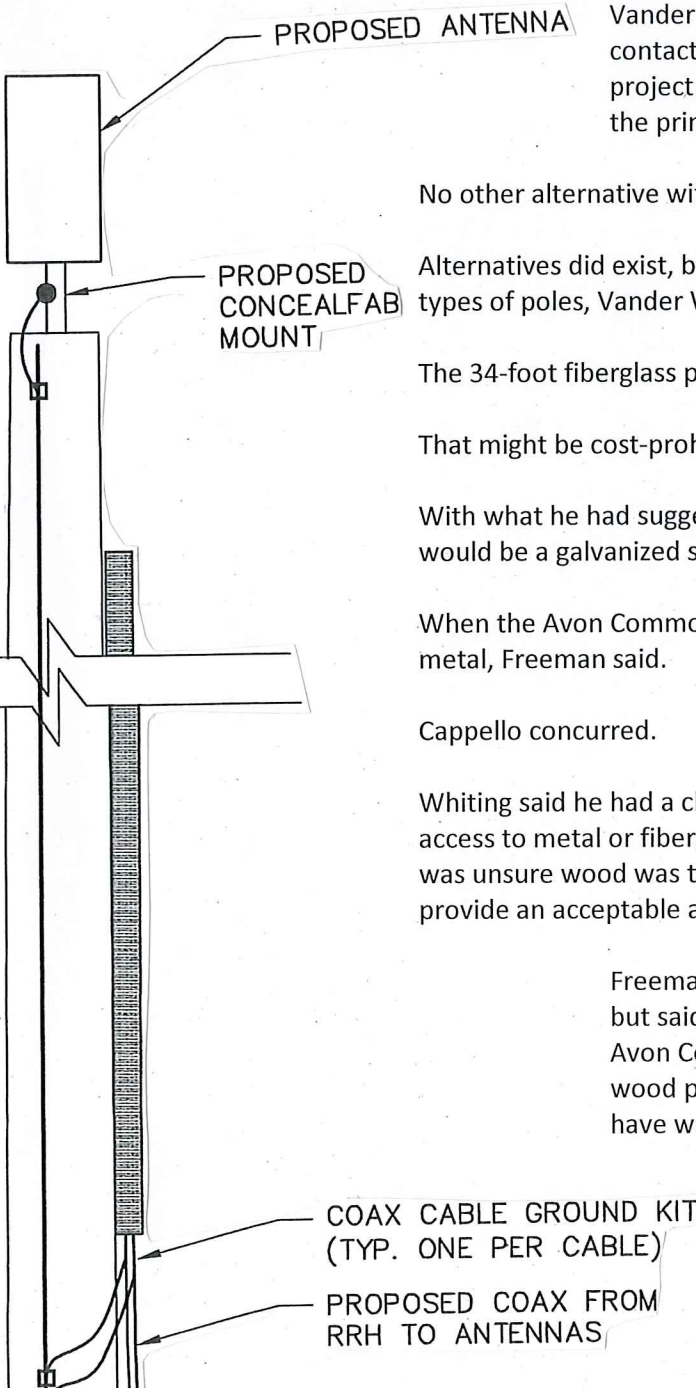
When the Avon Commons subdivision went in, the Village had specified all poles be metal, Freeman said.

Cappello concurred.

Whiting said he had a client that sold power poles. He was unsure if the client had access to metal or fiberglass poles of the height needed, but Whiting said he likewise was unsure wood was the end all and be all. His client, he said, might be able to provide an acceptable alternative.

Freeman said he could appreciate Fazio's "cost-prohibitive" concerns, but said the Zoning Board of Appeals (ZBA) was trying to protect the Avon Commons neighborhood. If the ZBA allowed Verizon to have a wood pole, what would they say to the next developer? They could have wood poles all over.

The Village Board had determined all poles in the Avon Commons subdivision would be metal, Brabant maintained.



Vander Wal was unsure how Empire Telephone, their installer, had reached their wood conclusion. He suggested they could seek an amendment to the Village's Planned Residential Development District (PRDD) regulations.

With regards to the State Environmental Quality Review Act (SEQRA), Freeman said the Board had reviewed Parts 1, 2 and 3 and no significant impact on the environment had been seen. The ZBA had designated themselves as lead agency for the purposes of SEQRA at the meeting of March 29, 2018

EAF PART 2 ACCEPTANCE MOTION

MOTION: Freeman moved to accept the Short Environmental Assessment Forms (EAF) Part 2 – Impact Assessment – for 180 Clinton Street and 220 Collins Street with the determination that the proposed actions would not result in any significant adverse environmental impacts, seconded by Conine. Voting in favor were: Freeman, Conine and Gerace. Voting against were: none.

CARRIED, 3 Ayes, 0 Nays

SUP APPROVAL RESOLUTION – 180 CLINTON STREET

Next, the Board considered a Special Use Permit approval resolution for 180 Clinton Street. Freeman read the conditions in the resolved which stated:

1. The Special Use Permit shall remain in effect for the current and future owners of the premises and/or operators with the requirement for renewal every three (3) years, provided the use remains in compliance with the conditions of approval and Village Code.
2. Village Code Enforcement Officer and/or Zoning Officer may make an on-site visit at least once over the course of the year, or as may be necessary, to insure that the Special Use Permit is being operated in accordance with the conditions specified by the Zoning Board of Appeals.
3. In the event of any complaints about the Special Use Permit operations being filed with the Village and/or Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Zoning Board of Appeals.
4. No additional poles and/or services other than what was specified on the application for this project is permitted. All changes will first require the approval of the Zoning Board of Appeals as they would be amendments to the Special Use Permit.

Freeman moved for adoption of the resolution, seconded by Gerace. Voting in favor were: Freeman, Conine and Gerace. Voting against were: none.

CARRIED, 3 Ayes, 0 Nays

SUP APPROVAL RESOLUTION – 220 COLLINS STREET

Next, the Board considered a Special Use Permit approval resolution for 220 Collins Street. The resolution mirrored that for 180 Clinton Street, but the Board added a fifth condition to the resolved stating:

5. The pole shall be black or galvanized metal or fiberglass. All efforts shall be made to comply with prevailing subdivision regulations. Use of any material, other than metal or fiberglass, must be brought before the Zoning Board of Appeals before installation.

Freeman moved for adoption of the resolution, seconded by Conine. Voting in favor were: Freeman, Conine and Gerace. Voting against were: none.

CARRIED, 3 Ayes, 0 Nays

B. EMPIRE ACCESS
 34 Main Street
 Prattsburgh, NY

SPECIAL USE PERMIT APPLICATION
 Jack Beers, Empire Access

Empire Access wanted to offer telephone, video, cable television, internet ad security systems to the businesses and residents of Avon. To do that, they needed an equipment cabinet (3’W x 3’6”D x 5’-6”H) from which to distribute services. A site in the Village right-of-way on the southwest corner of Collins and Hosmer Streets had been proposed:

At the meeting of March 29, Board Member Richard Hite had asked Joseph Kirchner of Empire Access if the company had considered alternative locations and had suggested the municipal parking lot behind his building at 87 Genesee Street. It was still light out and Kirchner said he would take a look on his way out of town.

Since then, Kirchner had asked what it would take to start the process over again with the municipal parking lot as their site.

Kirchner was advised to:

- Submit an amended Special Use Permit (SUP) Application for the new location (no new fee)
- Obtain a parcel map from Livingston County
- Submit the map, showing the new cabinet location, with their SUP application
- Contact Whiting for easement for the cabinet location
- Notify landowners within five hundred (500) feet of the new cabinet location via certified mail of their proposal and the date, time and place of the public hearing

Two weeks notice would be necessary to schedule a public hearing. If conditions were met, Empire’s hearing could be held Tuesday, May 15, 2018 following the Zion Episcopal Church area variance and subdivision public hearings.

IV. NEW BUSINESS
 Nothing pending.

V. ADJOURNMENT

MOTION: Freeman moved for adjournment at 6:55 PM, seconded by Gerace. Voting in favor were Freeman, Conine and Gerace. Voting against were: none.

CARRIED, 3 Ayes, 0 Nays

Gary Margiotta
 Deputy Clerk