

CITY OF SULPHUR SPRINGS
ZONING BOARD OF ADJUSTMENTS AND APPEALS
MEETING MINUTES
APRIL 16, 2019
5:30 P.M.

Present: Chairman Brad Burgin, Vice-Chairman Matt Johnson, Board Member Carrie Nuckolls, Board Member Kevin Mohl, Board Member Kyle Robinson

Staff: Tory Niewiadomski, Community Development Director, Jennifer Graham, Admin Asst., Community Development

Others: Bebb Francis, Erwin Cain, Jana Rushing, Steve Woody, Frank Pope, Tom Bolin, James Whitmoyer, Peggie Wilkins, James Litzler, Jonathan Kennedy, Chapman Bauerlien

CALL MEETING TO ORDER:

Chairman Brad Burgin called the Zoning Board of Adjustments and Appeals Meeting to order at 5:35 P.M.

DISCUSSION/ACTION ON ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING MINUTES OF MARCH 19, 2018.

Consider for approval the Zoning Board of Adjustments and Appeals meeting minutes of March 19, 2018. Board Member Carrie Nuckolls moved to approve the meeting minutes. Vice-Chairman Matt Johnson seconded. Motion carried, all voting aye.

DISCUSSION/ACTION ON A VARIANCE TO THE FRONT YARD SETBACK OF 25' FOR PROPERTY LOCATED AT 637 RASURE.

A request by Wayne Cooper on behalf of Mickey Eddins for a variance to encroach the front yard setback to place an addition 25' from the street curb at its closest point for property located at 637 Rasure. The applicant is seeking a variance of 9 feet to construct an approximate 739 square foot addition that would encroach the 25 foot front yard setback requirement of the zoning ordinance. They are looking to put it on the east side of the property which is the secondary front yard and this is the area of the encroachment. Based on the context of other houses in the area Staff recommends approval. Board Member Kevin Mohl n moved to approve the variance request. Board Member Carrie Nuckolls seconded. Motion carried, all voting aye.

DISCUSSION/ACTION ON A REQUEST FOR VARIANCE TO THE MASONRY WALL REQUIREMENT FOR PROPERTY LOCATED AT 1439 E. SHANNON RD.

Applicant is in the process of building a 10,200 sq. ft. building on the property. The Ordinance typically requires a masonry fencing between Heavy Industrial and Residential Zoning. The applicant is seeking to keep existing 11-12' tall evergreen trees along the west property line where it abuts residential zoning rather than installing a 6' masonry wall. The owner is requesting this variance from the wall requirement due to the natural buffer that currently exists along the west property line where it abuts residential zoning. The applicant believes that the evergreen trees will provide better buffer than that of a six foot tall masonry wall. In addition, the south end of the site

is elevated approximately 7 feet above the finished floor elevation of the new building. Any activity will be occurring on the front part of the property and is approximately 1000 ft. from any residence. Staff believes the trees will be a better buffer than the masonry wall. The applicant plans on planting more trees to increase the buffer. Vice-Chairman Matt Johnson moved to approve the variance request. Board Member Kyle Robinson seconded. Motion carried, all voting aye.

DISCUSSION/ACTION ON A SPECIAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A 310' GUYED TOWER (314' TO HIGHEST APPURTENANCE) FOR WIRELESS COMMUNICATION AT 1228 JEFFERSON.

A request by Tillman Infrastructure LLC, represented by Steve Woody and James Litzler, the owner of the property, for a Special Use Permit to construct a cell tower on property located at 1228 Jefferson Street, being further described as Lot 2, Block 304.

The request is to construct a 310' guyed cell tower with a 314' high appurtenance on an eight acre site with a 100' x 100' fenced compound area. A cell tower may be located in any district by special permission of the Zoning Board of Adjustments after a public hearing and recommendation by the city Planning and Zoning Commission. Such uses must comply with the height and area regulation of the district in which they may be located.

At the March 18, 2019 hearing it was discussed that the property was used as pasture due to the lack of infrastructure. The Planning and Zoning nor the Zoning Board of Adjustments cannot consider environmental effects as it is preempted by Federal laws and will not be used as a consideration. One of the concerns at this meeting were property values. Staff has not been able to find any information as to cell towers and property values dropping. If the request were to be approved it would then require approval from the FAA and FCC prior to constructing the tower due to its proximity to the airport. Another concern is that the existing tower Verizon is currently on is only half a mile from where a cell tower currently resides. Additionally, the tower would be located in a residential zone and exceeds its height requirement and the tower could fall and cause damage to structures in place. The tower is designed to fall in a spiral manner with a guyed radius to prevent it from falling offsite.

After the March 18th public hearing the applicant provided an updated site plan showing the zoning boundary on the property. The property is split zoned, one part being residential and the other light industrial. The tower and compound will be set within the light industrial zone. The applicant has filed for preclearance with the FCC and FAA. The tower will be over 500' from the closest neighboring structure.

At the March 18th public hearing eighteen public notices were sent out and there were three responses received. One each of approved, undecided, and opposed.

There are four towers in the city limits, Wildcat Way and Holiday Dr., near downtown on Kirksey, McKenzie Dr. and Dike St. near Glover and Mulberry.

The Planning and Zoning Commission unanimously recommended approval.

Steve Woody spoke on behalf of Tillman Infrastructure and James Litzler, the property owner. Tillman Infrastructure has been contracted by Verizon to provide tower infrastructure to this proposed location in Sulphur Springs, Texas. The tower is designed to provide Verizon Wireless with an antenna support structure for their wireless coverage here in Sulphur Springs. It will also provide infrastructure for three to four additional carriers if needed.

The tower and compound are set in the light industrial portion of the property. There is a little bit of the guyed anchors outside of that area. Tillman proposes to install some Eastern Red Cedars in front of the compound on the north side.

Bebb Francis spoke on behalf of SBA. In his visual presentation he states that half the residents, in this case, nine, out of the 18 notified owners opposed the tower. He states that having this tower will not create new or better coverage for customers. The tower does not bring any value to the community. Tillman's tower is one half of one mile from the current SBA tower. Erwin Cain was obtained by SBA as local counsel. He spoke about the fact that the residents had spoken and did not want the tower in their neighborhood.

Tom Bolin representing the Kingdom Hall of Jehovah's Witnesses. The concern of the structure falling has been resolved by moving the tower farther away from their building. Other concerns are increased lightning strikes, radiation emissions and loss of internet service causing interruption in some of their teaching methods. The church is opposed to the tower. James Whitmoyer, also with the Church, spoke against the tower.

Frank Pope spoke against the installation of the tower. Another tower is not needed since there is already a tower within a half mile east, northeast that is capable of handling more capacity and cell providers. The construction on a new tower at this location provides no lasting job creation to the community.

The Community Development Director clarified the zoning district issue. The plat did not establish the zoning district for that property. It was simply identified back in 1986 when the city went thru and did a city wide zoning initiative to zone all the properties we did confirm at our archives that the zone line drawn on the map was an angle like it would show on a plat. The 1998 plat confirmed that location.

James Litzler, owner of the property, spoke for the tower. In speaking with the Chief Appraiser for Sulphur Springs it does not show that any property value has gone down because of a cell tower being located close to their property. Mr. Litzler talked to a realtor in Sulphur Springs and in his opinion that in no way would a cell tower drop the property values of people on Jefferson St. Mr. Litzler called an insurance agent and he could not show any data that insurance rates are increased by cell towers near properties.

Mr. Litzler was able to speak to four of the property owners who originally were against the tower. After explaining his request to those he spoke to, those four residents changed their opinion. He was able to get those who changed their opinion to sign the notice showing they had changed their vote.

The eight acre tract lacks the infrastructure to build single family residences along Jefferson St. The topography and the lack of utilities are not right and it would need a lift station for development.

Board Member Carrie Nuckolls asked about the beacon light. The beacon light is a strobe light that will flash red at night and white during the day.

Chairman Brad Burgin asked how far the existing SBA tower is from the Paris Junior College (PJC) campus. The Community Development Director found that the SBA tower on McKenzie is approximately a quarter of a mile from the PJC campus. The Tillman Tower is also approximately a quarter mile from the PJC campus.

Chairman Brad Burgin asked how far the guyed wires come out. Mr. Woody answered that they are 217' out.

Chairman Brad Burgin moved to approve the Special Use Permit. Board Member Kyle Robinson seconded. Motion carried, Chairman Brad Burgin, Vice-Chairman Matt Johnson, Board Member Kevin Mohl, Board Member Kyle Robinson all voting aye, Board Member Carrie Nuckolls voting nay.

ADJOURN

With no further business the meeting was adjourned at 7:22 P.M.