

CITY OF SULPHUR SPRINGS
ZONING BOARD OF ADJUSTMENTS AND APPEALS
MEETING MINUTES
DECEMBER 17, 2019
5:30 P.M.

Present: Chairman Brad Burgin, Vice-Chairman Matt Johnson Board Member Jay Julian, Board Member Kevin Mohl, Alternate Board Member Janet Martin

Absent: Board Member Kyle Robinson

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

Others: Debra Evans, Craig Johnson, Coy Johnson, Brian Ross, Jonathan Kennedy, Janet Chapman, Gina Law, Taylor Nye, Judy Gilreath, Donna Gaston, Danny Weems

CALL MEETING TO ORDER:

Chairman Brad Burgin called the Zoning Board of Adjustments and Appeals Meeting to order at 5:30 P.M.

DISCUSSION/ACTION ON ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING MINUTES OF NOVEMBER 19, 2019.

Consider for approval the Zoning Board of Adjustments and Appeals meeting minutes of September 17, 2019. Board Member Kevin Mohl moved to approve the meeting minutes. Board Member Jay Julian seconded. Motion carried, all voting aye.

DISCUSSION/ACTION ON A SPECIAL USE PERMIT FOR 402 CHURCH ST., TO CONSTRUCT A 180' SELF-SUPPORTING COMMUNICATION TOWER.

The Planning and Zoning Commission reviewed this case on December 17, 2019, and recommended approval to the Zoning Board of Adjustments.

The applicant is requesting to construct a new communications tower at 402 Church St. There is an existing tower at this location already but it will be removed when construction of the new tower is complete. The old tower is approximately 100' and sitting on the top of a 20' building at location. The new tower will be self-supporting and will be placed on the ground fixed to a concrete slab. This tower would be similar to the one at 100 Craig St. It will have a 15' x 15' fenced in enclosure base. These are pre-engineered for this type of structure. The tower will be placed on the southeast corner of the building. The location was chosen so parking would be less impacted as well as providing conduit for the communications equipment. If the business should move the tower would remain unless taken down by the new owner. This tower is not designed to support cell tower equipment.

Danny Weems, the owner of Cross Country Communications and the property at 402 Church St., spoke to the Board regarding this matter. This tower will support internet service in town as well as out of town customers. This will not look like a cell tower. There is not an annual inspection required, but when annual maintenance is done the tower is checked. This tower is bigger and will

be more stable than the current one. This type of tower is not required to be lit according to FAA regulations unless they are over 200'. Vice-Chairman Matt Johnson moved to approve the request. Board Member Kevin Mohl seconded. Motion carried, all voting aye.

**DISCUSSION/ACTION ON A VARIANCE REQUEST FROM SUBDIVISION
ORDINANCE 2049 TO CREATE A SUBDIVISION LOCATED AT LOOP 301 AND CR
3503 WITHOUT EXTENDING PUBLIC UTILITIES.**

The applicant is requesting to subdivide a 120 acre tract which is located at Loop 301 and has frontage on CR 3503. This land would be divided into four parcels, one being 18.3 acres, one 20 acres, one 28 acres and one 50 acres. The applicant does not want to extend public utilities or improve the road. Subdivisions in the city limits must comply with city ordinances requiring these improvements. This property is not within the city limits but in the Extra Territorial Jurisdiction (ETJ), therefore these improvement requirements are enforced. It has been for the purpose that those properties within the ETJ will eventually become part of the City whether it be 5, 10, or 50 years down the road. If a City expects that property will eventually become part of the city limits, it should make sure that they are not annexing substandard properties that would require significant investment to bring it up to a standard of living expected within City limits.

The state law provides an exception to plat requirements if the division of land into parts greater than 5 acres where each part has access and no public improvement is being dedicated. However, the City's subdivision ordinance is more restrictive in that it requires subdividers of any tract of land within the ETJ who seek to subdivide into two or more parts shall comply with the subdivision ordinance requirements.

The City's subdivision ordinance addresses the adequacy of streets, water, sewer, and drainage meet engineering requirements of the Community Facilities Policies. The water and sanitary sewer installation policy indicates that water lines adequate for domestic supply and for fire protection needs to be installed to serve each lot or subdivision. The use of septic tanks is prohibited without specific written approval from the Public Works Director. Water and sewer lines are to conform to the Comprehensive Plan where deemed feasible by the City. Streets shall conform to the Comprehensive Plan as adopted where feasible. The current Comprehensive Plan identifies the need for street ROW width of 50' with 32' wide streets.

Staff does not believe it would be in the City's best financial interest to extend infrastructure to serve a subdivision of this nature with public streets and utilities. There is no way to serve the subdivision with gravity sewer and would require another lift station. Based on the very large lot sizes, staff is comfortable with not upgrading the county road to meet City specifications.

Board Member Kevin Mohl asked what made this property qualify as a subdivision. Our ordinance states that to create two or more lots from a tract of land used for building is a subdivision. The applicant will be providing a private utility easement to tap into the water that we do have on Loop 301 so each property would have access to our public water, but it would be on the private side to get that to the homes. Since this property will most likely never be annexed into the city limits, making the subdivision ordinance apply is not a priority.

Janet Chapman, owner of property on Shiloh Rd. that backs up to this location, asked if in the future this would be a subdivision like Jennifer Lane. With these large tracts it is possible that they could be subdivided again for development of a subdivision. This request is only to divide this tract of land into four lots. To subdivide again would require the property owner to come back to the Board. Since this property is in the county we have no control over zoning or building codes, only subdivision requirements.

Chairman Brad Burgin moved to approve the request. Board Member Jay Julian seconded. Motion carried, all voting aye.

DISCUSSION/ACTION ON A VARIANCE REQUEST TO THE SIGN ORDINANCE TO ALLOW A SINGLE POLE 10'X24'X35' OFF PREMISE DIGITAL SIGN AT 629 GILMER ST.

Applicant Coy Johnson is requesting a variance to the Sign Ordinance for property located at 629 Gilmer Street. The applicant is proposing to construct a 240 sq. ft. (10'x24'x35') sign to provide digital advertising from the Interstate to Downtown Sulphur Springs that is considered off-premise signage or a billboard. The Sign Ordinance of 2015 states:

- Billboards are only allowed on I-30, Highway 19, Highway 154/S. Broadway (South of I-30), Loop 301, and Highway 11/Wildcat Way.
- Billboards shall be monopole design.
- Billboards shall not exceed 300 square feet or 40 feet in height.
- Digital Billboards are allowed.
- Billboards may not be located closer than 2000 feet from an existing billboard.
- Billboards shall conform to TxDOT sign rules and regulations if on a State Highway.

There is a section in the sign ordinance for meritorious exceptions. The primary objective has been ensuring against the kind of signage that has led to low visual quality. On the other hand, an equally primary objective has been guarding against over regulation of signage. It is not the intention of these criteria to discourage innovation. It is entirely conceivable that signage proposals could be made that, while clearly nonconforming to this chapter, and thus not allowable under these criteria, have obvious merit in not only being appropriate to the particular site or location, but also in making a positive contribution to the visual environment.

Regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities in the corporate limits of the city, to encourage the general attractiveness of the community and to protect property values therein. Accordingly, it is the intention of this chapter to establish regulations governing the display of signs and in part to achieve the following:

- (1.) Safety. To promote the safety of persons and property by providing signs.
- (2.) Communications efficiency. To enhance the economy and the business and industry of the city by promoting the reasonable, orderly and effective display of signs and thereby encourage increased communication with the public.

(3.) Environment quality and preservation. To protect the public welfare and to enhance the appearance and economic value of the landscape by signs.

There are 46 billboards within the city primarily along the interstate. The proposal does meet the requirements of the size and height limitations but does not meet the spacing standards or the location where billboards are allowed. If you can meet the standards there are not many places where billboards can be located within the city limits. This ordinance was modeled after another city and almost all sign requests are being brought before the Board for a variance because that sign ordinance is not really conducive to the needs/wants of Sulphur Springs.

Craig Johnson spoke regarding this request. This will be a back to back monopole sign. The sign will be good for directing people from the interstate to downtown events. This sign will also advertise not for profit events. Brian Ross spoke and is concerned his building will lose visibility and it could make this a dangerous intersection more dangerous. He feels this will detract from the area. Coy Johnson spoke regarding the blocking of the business signs in the area and informed Mr. Ross that the sign would be 25' from the ground and it would not obstruct the view to those business signs. This will be a changing sign and not a digital sign at this time, but will be at a later time. Judy Gilreath spoke in favor of this request. Gina Law spoke about the donated space on the billboard given by the applicant and how it helps the CASA Organization.

Board Member Jay Julian spoke about the location of the Sign Ordinance as well as it being a mile off the road. City Attorney, Jim McLeroy, advised that the location of the sign is all the applicant is seeking a variance for.

All members believe the sign ordinance needs to be changed so that a variance does not have to keep coming before the Board for a hearing.

Board Member Kevin Mohl moved to approve the request. Vice-Chairman Matt Johnson seconded. Motion carried, Chairman Brad Burgin, Vice-Chairman Matt Johnson, Board Member Kevin Mohl, Alternate Board Member Janet Martin voting aye, and Board Member Jay Julian voting nay.

ADJOURN

With no further business the meeting was adjourned at 6:36 P.M.