MINUTES
CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT
REGULAR SESSION
5:00 p.m.
Thursday, February 26, 2015
City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Eugene Bird, Jr.; Board Members Jonathan McCoy, Bethany Golombeski, and Jeff Cremer; Staff Members Guy Hemenway, Kyle Kritz, and Wally Wernimont.

Board Members Excused: Board Member Joyce Pope.

CALL TO ORDER: The meeting was called to order by Chairperson Bird at 5:00 p.m.

AFFIDAVIT OF COMPLIANCE: Staff presented an Affidavit of Compliance verifying the meeting was being held in compliance with the Iowa Open Meetings Law.

MINUTES: The minutes of the January 22, 2015 Zoning Board of Adjustment meeting were approved unanimously as submitted.

Docket 02-15: Application of Chris Ershen, 370 Hill Street, for a conditional use permit to allow an off-premise garage as a conditional use 75 feet from the subject property.

Chris Erschen, 370 Hill Street, explained that he has purchased a detached garage located across the alley from his home. He said that he intends to use the garage to park his car and store items such as lawn mowers and bikes.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report noting that Mr. Erschen's request is for an off-premise residential garage located with 75 feet of his home. He said that the Conditional Use Permit approval binds the detached garage located on a separate lot with the property and the house associated with it. He explained that the detached garage and property could not be sold to another individual at a different location unless another CUP has been obtained. He noted that there was a previous approval for the same off-premise garage associated with the property to the south. He said that as the applicant is in the process of purchasing the garage from the former property owner, a new conditional use permit is required.

Board Member McCoy said the Board has reviewed the same garage at a previous meeting and that he does not see any issues arising from changing the ownership of the off-premise garage.

Motion by McCoy, seconded by Cremer, to approve the conditional use permit. Motion carried by the following vote: Aye Bird, Cremer, Golombeski, and McCoy; Nay – None.

Docket 03-15: Application of Jered Welter, 2901 Davenport Street, for a Special Exception to build a detached garage 8 feet from the front property line (Primrose Street,) 20 feet required, and 2 feet from the rear property line (alley,) 6 feet required in an R-1 Single Family Residential zoning district.

Jered Welter, 2901 Davenport Street, outlined his request for the Board. He said that he would like to build a detached garage at the rear of his property.

No one spoke in opposition to the request.

Staff Member Wernimont noted that an adjoining property at 2895 Davenport Street submitted a letter of support. He distributed photos of the site and explained the setback requirements and the location of the property and detached garage in relation to Primrose Street and the alley. He explained that the proposed detached garage will be located outside of the visibility triangle at the alley and Primrose Street. He said there is not adequate space in front of the proposed detached garage to park a vehicle without blocking the sidewalk.

The Board discussed the request noting there are no problems with the proposed location.

Motion by McCoy, seconded by Cremer, to approve the Special Exception. Motion carried by the following vote: Aye Bird, Cremer, Golombeski, and McCoy; Nay – None.

Docket 04-15: Application of Susan Faber, Black & Veatch, for a Conditional Use Permit to construct a 120 foot monopole communications tower and associated equipment enclosure in an R-1 Single Family Residential zoning district for property located at 3500 Pennsylvania Avenue.

Chairperson Bird asked staff to briefly summarize the previous Board meetings regarding the tower request since a new Board Member is present.

Staff Member Hemenway noted that the previous applicant, Mike Bieniek, submitted an application in July, 2014 for a Conditional Use Permit and Variance. He said that after discussion with the Zoning Board of Adjustment the applicant asked to table the request. He said that the same applications were presented to the Board in August of 2014 and the previous questions the Board had asked to were not answered to their satisfaction, and consequently the applications were again tabled.

He referred to a letter of opposition from Al Heitzman and Scott Kilgore, an aerial photo of the site showing the location of the proposed tower, a 120 foot radius map, a copy of a letter that was sent from the applicant to the property owners notifying them of the public meeting and a list of property owners who attended the public meeting.

Staff Member Hemenway read the standards for granting a conditional use permit.

Chairperson Bird declared that both dockets would be heard simultaneously for the purpose of presenting information and voted on separately.

Susan Faber, 7600 County Line Road, Burr Ridge, Illinois, with Black & Veach said that she represents SBA. She explained that SBA is a tower owner/developer that will be leasing space on the tower to Verizon Wireless. She explained that the proposed tower is needed to provide increased capacity, which is needed to satisfy increased demand for technology and data. She said that the site provide better service to the surrounding area. She explained that a neighborhood meeting was held and that five people attended the meeting in addition to members of the Dubuque Bible Church.

She referred to a detailed property value report prepared by Integra Realty Resources. She said that the report studied three existing tower sites located in the Dubuque area. She read the economic analysis summary of the report, noting that the towers had no substantial impact to residential property values. She explained said that the cell towers are located at 2763 Pennsylvania Avenue, on property owned by the Dubuque Community School District and in Clay Ridge Subdivision. She discussed the proximity of the surrounding residences in relationship to the proposed cell tower. She noted that SBA is required to carry insurance for any damages that may be caused by the tower. She noted that the tower would not cause real estate taxes or valuations to be raised on the adjoining residential properties.

Ms. Faber introduced, Richard Hitchcock, design engineer with Saber Industries, via cell phone. She read Mr. Hitchcock's bio, and noted his background associated with monopoles.

Mr. Hitchcock explained he is the chairperson for the Zoning Board of Appeals in his community and understands the difficult situation that the Board is faced with. He said that Saber Industries, SBA and Black & Veach have worked together on other proposed monopole sites. He said that a Saber Industries design has never failed. He discussed the code requirements necessary for the monopole that make a catastrophic failure unlikely. He said that in the event of a catastrophic failure potentially created by straight line winds of 160 miles per hour at the base of the structure, the pole is designed to collapse in the middle and fall into itself. He explained how the monopole is anchored to the ground and noted that it is designed to be 20% stronger than the industry standard. He said that the weakest part of the pole is 53 feet above ground, at a point where the pole would bend over onto itself and not topple like an uprooted tree. He said that if the pole were to bend all the way over to the ground, it would extend approximately 40 feet

from the base of the pole.

Ms. Faber answered a previous question regarding the potential for relocating the tower somewhere else on the site or on a different site altogether. She said that the proposed tower location is ideally situated so as to provide the maximum capacity for data plan users in immediate area. She said that data plans enable people to use their cell phones to search the internet, access email, watch movies, etc. She said that given this growing need, more capacity must be provided in the area. She said that these towers are typically located close to residential areas because residents are the primary customers who are using the data plans. She said that this site has direct access to Kebbie Drive. She indicated that if the pole were to be moved anywhere else on the site it would still have the same impact on adjacent residential property.

Scott Kilgore, 1684 Westridge Drive, submitted a written letter of opposition. He noted that the applicant said that the tower is needed for increased capacity for use of email, videogames, movies, downloading, etc. He said that most people in residential areas use Wi-Fi in their homes to supply data capacity for their phones. He said the he is concerned with the possibility for the tower to topple onto neighboring properties.

He submitted a petition to the Board with signatures from adjoining property owners opposed to the tower that included a map highlighting the lots of the people who signed the petition. He played a short video showing the proximity of the proposed tower to the neighboring properties. He said that the proposed cell tower will require maintenance, which will require at least four visits per month.

Sandra and Jamie Herrig, 1655 Westridge Drive, spoke in opposition to the request. Ms. Herrig noted they were unable to attend the public meeting that was held by the applicants. She asked if other properties had been considered for the tower location, and if other buildings or structures could accommodate the necessary technology. She expressed concern with the potential for an accumulation of ice and snow on the tower to break free and cause property damage. She said that the tower would be an eyesore and make it difficult for her to sell her home.

Peter Hesselman 1645 Westridge Drive, spoke in opposition to the request. He noted that he is not concerned about the data capacity of the tower will provide. He said that he is only concerned for the safety of his family.

Jessica Hesselman, 1645 Westridge Drive, noted that the applicants indicated that the tower is needed to provide extra capacity to accommodate data plans. She said her husband is a teacher and works at Hempstead High School and that he has never lost coverage for his data plan. She said that other neighbors in the area that have Verizon said that they do not experience problems receiving data. She noted that the neighbors who reside at 1655 Westridge are out of town and were unable to sign the petition but that they signed the previous petition.

Al Heitzman, 1615 Westridge Drive, noted that he is a 50-year resident of the neighborhood. He referred to a letter he submitted on September 23, 2014. He read the letter into the record and distributed a plat of the original subdivision. He noted that he spoke with the City Assessor and asked how the proposed cell tower would impact his property value. He said the City Assessor indicated that it could impact his assessed valuation. He discussed the difference in tax revenue if the property were to be developed for residential uses. He questioned why the applicants are proposing this location and not looking at a vacant lot behind the mall on Century Drive.

Duane Jelinek, 1695 Westridge Drive, noted that he opposes the proposed cell tower.

Lloyd Auderer, 1625 Westridge Drive, noted he has been a resident of the neighborhood since 1965. He spoke in opposition to the request expressing concerns with the visual impact of the tower and the resale value of his property.

Ms. Faber addressed the neighbor's comments. She discussed coverage for data plans in the area. She indicated that Verizon and SBA would not be proceeding with this location if additional capacity was not needed and that this site was chosen by their RF engineers.

Mr. Hitchcock addressed the potential for ice accumulation on the tower, noting that there is not adequate area for such build-up on the vertical surface of the pole. He explained that some ice may accumulate on the pole; however, there would need to be excessive high wind speeds in order for the ice to be blown off the pole. He said these wind speeds typically do not happen in the winter time.

He addressed lightning issue, noting that the pole will channel electricity to the ground in a safe manner. He said that a tower of this height may actually provide some protection to the other homes located in the neighborhood because it would most likely be struck first.

Board Member Golombeski had questions for the engineer regarding the average height for monopole towers. Mr. Hitchcock said 120 foot is the approximate average height for a monopole tower.

Board Member Golombeski asked Ms. Faber the extent of the coverage area for the proposed tower. Ms. Faber indicated that the proposed coverage area is approximately one mile.

Board Member McCoy asked the engineer to explain the 25% safety factor standard included in the materials previously submitted. Mr. Hitchcock explained the 25% safety factor to the Board.

Board Member Golombeski asked if additional antennas can be located on the pole.

Staff Member Kritz explained that the cell tower can co-locate up to two additional antennae.

Chairperson Bird asked if any other of the sites studied are within the one mile tower coverage area. Ms. Faber indicated that that the coverage area may be as little as a half-mile and that an RF engineer may be able to better explain the siting requirements. She discussed how the site was chosen noting that initially RF engineers determine where the search area will be. She said that a proper elevation is needed to insure that the tower can provide service coverage to the area. She said that then they negotiate with a property owner that is willing to lease a site.

Chairperson Bird asked if the antenna can go onto existing structures located in the service area. Ms. Faber indicated that if a co-location site is available, that could be an option, and that co-locations are often considered by the carrier as they are cost effective.

Staff Member Hemenway addressed the comment regarding the potential for the Board's decision to set precedent. He said that the decision made by the Board does not establish a precedent and that each case has to be reviewed on its own merits. He said that the Board's decision does not bind future requests. He discussed a map that identified the location of other towers located in the city. He explained the reasons why a cell tower is required to obtain a conditional use permit. He referred to a map delineating the 120-foot radius around the base of the proposed tower highlighting its proximity to residential structures.

Board Member Golombeski asked about the height of the transmission lines that are located along the rear of the subject residential properties. Staff Member Kritz estimated that the height may vary between 35 to 50 feet.

The Board discussed voting first on the conditional use permit. Chairperson Bird noted that each Board Member should express their rationale prior to casting their vote.

Board Member McCoy felt that the cell tower did not meet Criteria F & G for standards for granting a conditional use permit.

Board Member Cremer said that this was the most complete application provided by any communications company. He expressed concern with the size and harmony of the structure in relationship to the adjacent residential property. He also noted that he has not heard from the property owner, Dubuque Bible Church, regarding the application. He said that he felt that the request did not meet Criteria F of the standards for granting a conditional use permit.

Board Member Golombeski said she had concerns similar to those expressed by Board

Members Cremer and McCoy. She said that she felt that the application does not meet Criteria F & G of standards for granting a conditional use permit.

Chairperson Bird said that he shared the same concerns as the other Board Members. He said that other sites that may have less impact on the adjacent properties should be considered by the applicant.

Motion by McCoy, seconded by Cremer, to approve the Conditional Use Permit as submitted. Motion was denied by the following vote: Aye – None; Nay - Bird, Cremer, Golombeski, and McCoy.

Docket 05-15: Application of Susan Faber, Black & Veatch, for a Variance to place a 120 foot monopole communications tower 72.74 feet from the property line, 120 feet required, in an R-1 Single Family Residential zoning district for property located at 3500 Pennsylvania Avenue.

The Board reviewed the criteria for granting a variance.

Board Member McCoy noted that the variance does not meet Criteria 1 and will not be contrary to the public interest.

Board Member Cremer agreed with Board Member McCoy, and felt the application for a variance does not meet Criteria 1 or 5.

Chairperson Bird said that he had concerns with the close proximity of the proposed tower to the single-family residential homes, and noted that he is not in favor of granting the variance for the setback.

Board Member Golombeski agreed with the other Board Members stating that the request did not meet Criteria 1 or 2.

Motion by McCoy, seconded by Cremer, to approve the variance. Motion was denied by the following vote: Aye – None; Nay – Bird, Cremer, Golombeski, and McCoy.

ADJOURNMENT: The meeting adjourned at 6:50 p.m.

Respectfully submitted,

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Kyle L. Kritz, Associate Planner Adopted