

Athens City Planning Commission
Minutes of Regular Meeting
Thursday, April 20, 2017, 12:00 p.m.

The regular meeting of the Athens City Planning Commission was held in the Council Chambers, third floor, at City Hall on April 20, 2017.

Attendees: John Schueler, Kenneth Ryan, Phil Berry, Barney Grueser, Carol Grueser, Jo Merkle, Jack Stauffer, Randy Hartmeyer

1. Call to Order

RJ Sumney called the regular meeting of the Planning Commission to order at 12:03 p.m. and administered the oath to all who intended to speak before the commission. Quorum was established.

PLANNING COMMISSION MEMBERS:

RJ Sumney, Chair Present
Christy Zempter Present
Nancy Bain, Vice Chair..... Present
Steve Patterson, Mayor Present
Paula Horan Moseley, Service-Safety Director..... Present

STAFF:

Paul Logue, City Planner Present
Rick Sirois, Code Enforcement Director..... Present

2. Disposition of Minutes

Paula Moseley moved to accept the April 6, 2017 minutes. RJ Sumney seconded. All present voted aye. Motion passed.

3. Cases

Christy Zempter made a motion to amend the agenda to add “Public Hearing” to Case #17-07, Title 43, Wireless Communications Facility. Nancy Bain seconded. All present voted aye. Motion passed. (The required public hearing notice was published and notification letters to property owners were sent. The words “Public Hearing” were inadvertently left off the agenda.)

Public Hearing

**Case #17-07 Title 43, Wireless Communications Facility
286 W. Union St., Athens County Fairgrounds
Horvath Communications**

Rick Sirois/Synopsis

Horvath Communications has filed an application for a new Wireless Communication Tower to be constructed on property owned by the Athens County Agricultural Society at the Athens County Fairgrounds. Property would be leased to Horvath Communications. The site is to be developed at the request of Verizon Wireless. Horvath Communications will own the tower and accommodate additional service providers.

The request is for the construction of a 155' monopole antenna with an overall height of 160' with the addition of a lightning rod and beacon/strobe (per FAA requirements). The site will include supporting ground equipment pad and security fencing. The antenna is to be located on a parcel in the far northeast corner that adjoins the City of Athens Cemetery. The proposed tower lease area is 4,244 sq. ft.

On February 3, 2017, he notified Mr. Hartmeyer his application was denied based on the yard setback requirements and an incomplete application. He recommend that they continue with the process and file a request for 43.27 Relief. On March 14th, 2107 he received an updated package with a request for relief from Section 43.14 Lot Size and Setbacks. They also provided the additional information required to complete the application. On April 10th, 2017, he received information from the Service-Safety Director identifying a possible alternative site at the Ohio University permanent campus boilers.

Applicant: Horvath Communications, Agent Randy Hartmeyer, 301 Main St, Zanesville, Ohio

Property Owner: Athens County Agricultural Society

Tower Owner: Horvath Communications, 312 West Cofax Ave., South Bend, Indiana

Project Site: 286 West Union Street (County Fair Grounds)

Estimated Cost of the Project: \$180,000.00

Discussion

Paula Moseley: They are seeking relief from the setback issues. They state that they have no intention to have any additional landscaping for screening.

Rick Sirois: They are seeking relief from the setback and lot size. Regarding the side yard setback, the requirement is to be greater than either the distance equal to the height of the tower plus 10%, in this case 170.5', or the underlying zoning district, whichever is greater. Any accessory structures are required to be located to meet the setback requirements. The tower does not meet the setback requirements, so they have applied for relief from this section. Regarding Title 43 requirement "Type, location and dimension of all proposed and existing landscaping and fencing", the applicant has submitted a letter proposing that no additional landscaping be utilized for screening.

Paula Moseley: Under Item 43.07 (L) (1) "Applicant shall be required to submit a written report of efforts to secure shared use of existing towers or buildings or other structures within the city.", they provided Ex. 11 and she provided an offer by OU of their permanent boiler site.

Randy Hartmeyer/SBA Communications, representing Verizon Wireless and Horvath Communications

General overview of why this site was selected: The additional service need was identified by Verizon Wireless. The geographic area and height parameters for a new tower were communicated to him and he familiarized himself with Athens and met with Paul Logue. He looked for existing locations that they could co-locate on. In this case, Verizon has coverage in the area which complicates the problem, however, they are at capacity at the sites, one on Court St. and the other at The Ridges. These two sites are overloaded so this proposed tower is to offload from them. They provided propagation maps and need to be in a specific area to accomplish offloading. He couldn't find any existing structures to co-locate on (one tower on Curran Drive was available but Verizon rejected because it wouldn't satisfy offloading The Ridges site). He rode with Ron Lucas to look at other sites in town but none met the requirements (the city-owned properties were exhausted and ruled out). Commercially zoned properties were looked at but they wouldn't meet the setback requirements. The Fairgrounds Board was agreeable and of the four sites reviewed, they settled on the particular location because the Board didn't foresee a use for that area because of the terrain.

Steve Patterson: Did they look at W. State St. Park? If so, why didn't it work?

Randy Hartmeyer: The park is too far west, plus they wanted to stay away from the wellfield. It would interfere with another Verizon site off Rt. 682 as well.

Steve Patterson: What is too far west? The fairgrounds site is west.

Randy Hartmeyer: It is too far west to reduce the load of the other two sites.

Steve Patterson: Is 155' the optimal pole height; how critical is height?

Randy Hartmeyer: Height is critical in building coverage. 150' is optimal for Verizon. The city ordinance requires the structures be built to accommodate four carriers. A tower less than 150' won't accommodate four carriers. If a 150' tower were to be built multiple carriers would be able to co-locate.

Steve Patterson: Arrays on water towers, smokestacks, etc. are always looked at?

Randy Hartmeyer: Yes, they didn't find any suitable existing structures.

Steve Patterson: We have received communication from OU about a possible location from them that could be closer to their ideal spot.

Randy Hartmeyer: The OU location is too far south (too close to The Ridges). The engineers did look at OU's steam plant location and found that you give up 14' in ground elevation and 55' in rad center height; overall loss of 70' in elevation. Smoke stacks are not designed to hold a 12 antenna array. A shadowing effect of the building itself was also a negative (would not be able to cover a part of campus).

Nancy Bain: The main purpose of this tower is to serve the NW area of campus?

Randy Hartmeyer: The main purpose is to offload existing coverage that they have, which happens to be in the NW area. It is to improve the capacity.

Nancy Bain: Does the geomorphology of the area have anything to do with it? Can you compensate or pay more money to go down where there is gravel vs. a glacial terrace?

John Schueler/Terra Consulting: The main thing is the height. If you are down near the river you will be in a lower elevation which will lower the whole antenna array.

Nancy Bain: How long are we going to be building new towers, when will they start building better receivers?

Randy Hartmeyer: Equipment has gotten smaller. The demand has gotten higher which is driving the additional sites. Land lines are not in existence as much and cell phones are relied upon more. The trend is to acquire more capacity and to put things on poles.

Paula Moseley: You have existing coverage.

Randy Hartmeyer: Verizon has coverage in Athens. Verizon is reaching capacity now.

Paula Moseley: A case on the agenda today is for a modification to an existing tower. Why is this not a consideration?

Randy Hartmeyer: Modifying on a tower won't solve this problem. They have looked at that.

Steve Patterson: When Verizon and Horvath are looking at sites, is potential property development taken into consideration when sites are determined?

Randy Hartmeyer: Typically, these questions will be asked of property owners and city planners. Many city planners will guide them about the potential for development.

Jo Merkle/8 N. Shafer St.

She will be looking right at the tower and doesn't want to do that.

Rick Sirois: The applicants have made every effort to meet the Title 43 requirements.

Paul Logue: City staff have met with the applicants for at least a year. They have been doing their due diligence to meet all the requirements.

Wayne Strickland/326 W. Union Street

Helicopters fly over his property going to O'Bleness Hospital. Is this going to affect Life Flight helicopters? Has anyone checked with O'Bleness?

Randy Hartmeyer: Contacted Med Flight and the local airport. ODOT has to issue the permit. They received a request from Med Flight that it be lighted over 125'.

Paula Moseley: It is clearly stated in the packet "lightning rod and beacon/strobe", so not only will it be 155' tall it will be lighted and won't have landscaping for screening. She remains unconvinced of actual need. She has heard that there is existing coverage. Landscaping or some kind of screening should be included.

Christy Zempter: Screening is not going to be 160' tall, but something should go in to lessen the impact from the ground level. Because it is on the elevation it is, she thinks some well thought out landscaping could be done.

Paula Moseley: The setback is impacting the cemetery.

Steve Patterson: His chief concern is the setback and the abutment with the historic cemetery. If it is going to fall what about liability insurance?

Randy Hartmeyer: Verizon and Horvath will carry insurance as part of the City code requirement.

Steve Patterson: The visual impact and med flight are additional concerns. He is not convinced that OU's property is not a viable solution for putting this in. How far west is too west and how far south is too south for a level of communication that is not needed right now.

Paula Moseley: The letter is dated 12/9/16 from the engineer stating that other locations won't be acceptable. We don't have a letter stating why the OU site won't work.

Randy Hartmeyer: He has informal communications.

RJ Sumney: Is there a reason why they are not proposing to shield the tower?

Randy Hartmeyer: From the west there is existing vegetation and a building, from the north there is a tree and a hill that drops off (landscaping not of much value). Could possibly landscape on the west side, but you would only be able to screen it from the cemetery.

RJ Sumney: The Planning Commission would provide the release for this. At this point no one on the commission wants to make the motion going forth. A vote could be made to table this for when the need is more imminent.

Nancy Bain: The case could just stay.

RJ Sumney: The Commission wants to hear more about a specific or urgent need at this point. Verizon or Horvath have not shown that there is a particular need at this time.

Paula Moseley: Doesn't feel that the other sites (at least the OU site) have been explored, or the screening, etc.

Christy Zempter: She would like them to get something more formal from the engineers to explain why the other sites won't work.

Nancy Bain: Even if this information is provided for us, would this site be one we would support? Tabling implies that we are open to this location.

Steve Patterson: Concurs with Christy Zempter regarding the location and believes that there are other locations available.

RJ Sumney: Without a motion going forward we will not be able to respond with an approval at this time. Regarding this specific site, it will be determined ultimately by the community who wants to have added service. You can come back at some time with more information to address capacity issues.

**Case #17-08 Title 43, Wireless Communications
36 South Court
Roof Top Modifications**

Rick Sirois/Synopsis

In accordance with Athens City Code 43.07 Special use permit application, New Cingular Wireless (AT&T) is proposing modifications to upgrade their system on an existing rooftop facility telecommunication site. The proposed modifications include removing and replacing 6 existing panel antennas and related equipment, removing 4 existing DC power cables, and installing 6 new remote radio heads, 2 DC cables, 1 rectifier and 3 breakers.

This request involves roof top work on existing "sled" type units located on the roof of 36 S. Court Street. The total antenna elevation including the building is 78' and the actual height of the antenna is 10'5". No changes to the height or footprint of the current equipment will be made.

Proper supporting documents were provided for the structural analysis of wind and foundation requirements. After a review of the documents it was determined that it met with Code requirements under Title 43.

Applicant: New Cingular Wireless c/o Jacobs Telecommunication, 635 Grant Street 7th
Floor 7A08 Pittsburgh, PA 15219
Property Owner: 36 South Court, Investors LLC
Sled Owner: T Mobile
Site Location: A027080006500 - 36 S. Court Street, Athens,
Project Description: Modification
Zoning: B2D
Estimated Value of Improvement: \$15,000.00

Discussion

Steve Patterson: This is not a new tower. Taking existing sled and modifying it.

Steve Patterson moved to approve Case #17-08. Christy Zempter seconded. All present voted aye. Motion passed.

**Case #17-09 Title 43, Wireless Communications
39 Water Tower Drive (OU Ridges)
Modifications**

Rick Sirois/Synopsis

This is Ohio University property. They have acknowledged/accepted this request. Cingular Wireless (AT&T) Mobility is planning to upgrade and add equipment and new antennas on an existing 150' tower. Modifications will be made to the platform at the 148' level. No changes to the height or footprint will be made. Modifications include removing an existing DC power trunk and installing 3 new RRH's, a new DC power trunk cable, 2 rectifiers, 2 converters and 3 breakers.

Proper supporting documents were provided for the structural analysis of wind and foundation requirements. After a review of the documents it was determined that it met with Code requirements under Title 43.

Applicant: New Cingular Wireless c/o Jacobs Telecommunication, Agent – Jerry Johnson
Property Owner: State of Ohio
Tower Owner: American Tower Corporation
Site Location: 39 Water Tower Drive
Zoning: E1
Estimated Value of Improvement: \$15,000.00

Paula Moseley moved to approve Case #17-09; Christy Zempter seconded. All present voted aye. Motion passed.

4. **Communications**

**Title 21 Lotsplit
46 Canterbury Drive
Wanda Cash, Kenneth Ryan**

Rick Sirois/Synopsis

This involves several parcels. Proposing to use a smaller piece and connecting it to a larger piece making it continuous and contiguous. It is an irregular lot without road frontage so access to the lot will have to come off of the existing driveway. Mr. Sirois distributed a larger drawing that he had outlined in red the proposal and the driveway. A small sliver of the parcel is owned by the West's, Wanda Cash's driveway begins in the West's parcel. Proposing to move the driveway and move the little block to use that as her driveway. Proposing that the driveway would come out on her existing driveway.

Discussion

Steve Patterson: At 44 Canterbury Drive, the front of that home is in the City right-of-way?

Rick Sirois: Yes, they will have to cut into the corner of the ROW.

Paula Moseley: These are two separate subdivisions that were built on either side of the road; Lamar Heights and Stanley Heights.

Rick Sirois: The property line is getting to the point of crunching possible properties that we can use and cannot use. This lot is buildable. Topography descends at the back side of the property. The difficulty is the access and it is on a road frontage. They are trying to be creative with what they have.

Kenneth Ryan/on behalf of Wanda Cash

Distributed another illustration. Added a "house" in orange to lend perspective.

Paula Moseley: What is going on with the subdivision; this is a platted subdivision and the road just ends.

Kenneth Ryan: The illustration has topography contours. The proposed split is in a relatively level area. The other lots that are down below are in a very steep location.

Paula Moseley: Does this require something greater than just a minor subdivision? If this is a major subdivision and these are modifications for the subdivision it has to go through the other process.

Kenneth Ryan: The request is for a lot split at 46 and the ability to use an access easement for it.

Paula Moseley: Is 46 part of the subdivision? There were some comments from the refusal regarding the changing of an address and the access.

Rick Sirois: He has been in contact with 911. Wanda Cash would have to change her address to 48, and the new lot would be 46.

Paula Moseley: Research needs to be done on the platted subdivision and what she views as a modification to the platted subdivision.

Rick Sirois: He has been working since August with Wanda Cash. They tried to explore many opportunities that would fit.

Paula Moseley: Research needs to be done on the Stanley Heights subdivision.

Kenneth Ryan: He will address that to help explain the situation.

Steve Patterson: What is the linear footage of the small rectangular piece where the driveway is?

Rick Sirois: 10' x 3', the width of the driveway.

Steve Patterson: It would correct the conflict with the West's parcel.

Nancy Bain: Wanda Cash owns a lot of land in the subdivision; are there plans for the future?

Kenneth Ryan: No. It is possible to make another split to the north of the parcels, but because of the topography she doesn't think this would be possible. This is the only seemingly workable parcel.

Nancy Bain: She could access the lower lots via Hickory if she developed it.

Kenneth Ryan: If the GIS is accurate there is a home that may be in the ROW on Hickory which would create an obstacle to developing a roadway.

Steve Patterson: The slope is a challenge in this area.

Title 41 Menards update

Rick Sirois

Menards presented to the Shade Tree Commission last night and will come back with a landscaping plan. They plan to present at the next meeting if he gets this information from them.

Title 21 Minor Subdivision Lotsplit 124 & 128 North Lancaster Jack Stauffer

Paula Moseley read from the 4/6 minutes, RJ Sumney's wrap-up of Mr. Stauffer's communication: "The options have been laid out by Paula Moseley. Mr. Stauffer needs to have a resolution with Code about how to proceed with the variances before he comes back to the Planning Commission to address the lot split", and her reply "There are multiple items that need to be addressed. The Planning Commission will work with Code and the City Engineer and provide a response". She has not done this yet.

Jack Stauffer/69 Elmwood Place

Mr. Stauffer reiterated his comments from the April 6th Planning Commission meeting and read from a prepared statement. His statement included reasons why he feels he has to defend his property rights.

Since the April 6th meeting:

- He received the following information from the Code Office: 51 Mound was built in 1978, 75 & 77 Mound were built in 1981, no lot split information could be found.
- He has visited City Services Office (EPW) five times. Jessica Adine provided him with the plans for the North Congress Area Sewer Line project. There is a branch off the sewer line that goes between 68 and 70 Mound Street. On the west side of Mound there is a grate and on the east side there is an opening with an 8-12" pipe. This could be a route for a line to service the subject area. Jessica Adine referred him to Eric Barnhouse, and also mentioned an Ohio Drainage Law, however, she was unable to locate a copy. He followed up with her this morning and she advised she was still unable to locate a copy and suggested the Public Library as a source. He stated that he

does not have a good relationship with Andy Stone or the City Services Office (EPW).

He is defending his property rights and his right to basic city services that others have. He feels that people are trying to find ways to deny him his request. He does not want Andy Stone determining this case. His simple lot split is becoming complicated by this issue.

Discussion

RJ Sumney: Noted that in order for the Planning Commission to act it will need the other issues that were outlined at the April 6th meeting to be addressed.

Jack Stauffer: He has attempted to get information from the City Services Office (EPW) and the Mayor's office.

RJ Sumney: Stated that his comments are appreciated and the city will work with him on the complicated lot split.

Jack Stauffer: This is only complex because there are four lots that don't have sewer service.

Nancy Bain: Many problem areas exist in that area, people have been adding laterals into the line. There is no sewer line in the front of her property either. Not all streets have sewer lines in front of them.

Jack Stauffer: Continued to restate his earlier remarks.

Paula Moseley: She will provide further information. The Mayor's Office provided information in response to his public records request. Mr. Stauffer threatened legal action against the city.

Jack Stauffer: Did not threaten legal action, he has talked to a lawyer, but he hasn't hired one yet.

RJ Sumney: We need to clean up these other issues first, this is where we are still at.

Jack Stauffer: Who makes the first move? Does he sue the city?

Paula Moseley: Her stance has been communicated.

Steve Patterson: You purchased the properties in the 1980's and if you had done your due diligence at the time you would have been aware of the water and sewer service situation at the time.

Jack Stauffer: His due diligence, when he purchased the properties, was that he saw them and assumed there was a sewer line there. He cannot work with Mr. Stone. He is trying but it is not getting anywhere. He wants the Planning Commission to instruct EPW to install a line so he can move forward. He is not threatening.

Paula Moseley: Mr. Stauffer is impugning a public official and she won't allow that to continue. He has been offered two options moving forward.

5. **Report from City Planner and Director of Code Enforcement**

Paul Logue

No Report

Rick Sirois

No Report

6. **Opportunity for Citizens to Speak**

None

7. **Announcements & Other Business**

None

8. **Adjournment**

The meeting was adjourned at 1:51 p.m.

RJ Sumney, Planning Commission

Patricia Witmer, City of Athens