

**SPECIAL MEETING MINUTES OF THE
CITY OF PATASKALA BOARD OF ZONING APPEALS**

Tuesday, May 30, 2017

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, City Hall, 621 West Broad Street, Pataskala, Ohio on Tuesday, May 30, 2017.

Present were:

Bruce Ashcraft
Catherine Baird
Kathleen Hasson
Robert Platte
TJ Rhodeback

City of Pataskala Planning and Zoning Department staff:

Scott Fulton, Planning Director
Zackary Cowan, City Planner
Aaron Glasgow, Esq., Law Director

Chairwoman Baird opened the hearing at 6:30 p.m., followed by the Pledge of Allegiance.

Roll call was made. Present were: Bruce Ashcraft, Catherine Baird, Robert Platte, TJ Rhodeback and Kathleen Hasson.

First on the Agenda, Variance Application VA-17-009, 2957 Headleys Mill Road.

Mr. Cowan gave an overview of the Staff Report, noting the applicant is proposing to demolish the existing pole barn and construct a 1,596-square foot barn that would be located in front the principle structure. Mr. Cowan noted Staff believes a hardship is present with the existing conditions of the property considering the layout of the principle structure towards the property line and the location of the pond occupying a large portion of the property.

Chris Bailey, 2957 Headleys Mill Road, was placed under oath.

Mr. Bailey noted the building will be a Craftman's style barn complimenting the house.

A discussion was had regarding the size and height of the accessory building.

A discussion was had regarding the topography of the property.

Findings of Fact were discussed.

Ms. Rhodeback noted a demolition permit be granted prior to the construction of the accessory

Ms. Rhodeback made a motion to approve variance from Section 1221.05(D)(1) of the Pataskala Code for variance application VA-17-009 with the following supplementary conditions:

1. The applicant shall obtain a demolition permit prior to demolishing the existing pole barn.
2. The applicant shall construct the accessory building as submitted within one (1) year of the date of approval.
3. The applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department prior to constructing the accessory building.
4. The existing drainage pattern shall not be disturbed.

Seconded by Ms. Hasson. Ms. Baird, Mr. Platte, Ms. Rhodeback, Mr. Ashcraft and Ms. Hasson voted yes. The motion was approved.

Mr. Platte made a motion to amend the motion:

4. The existing drainage pattern shall not be disturbed or permanently altered.

Seconded by Ms. Rhodeback. Ms. Baird, Mr. Platte, Ms. Rhodeback, Mr. Ashcraft and Mr. Hasson voted yes on the amendment.

Ms. Baird reviewed the 30-day appeals process.

Next on the Agenda, Conditional Use Application CU-17-007, 361 South Main Street.

Mr. Cowan reviewed the Staff Report noting the applicant is seeking a conditional use to allow the existing building to be used for religious purposes. The current building being roughly 2,700 square feet and built in 1890. The applicant has proposed to use the building for faith-based activities. According to the narrative, the property was selected by the applicant because of its location relative to the community and future plans include hosting events. Mr. Cowan reviewed the parking requirements.

Sue Ann Wheeler, 708 Osborn, was placed under oath.

Ms. Wheeler noted being involved in City activities, trying to find ways to connect and build community amongst the City.

Findings of Facts were discussed.

Ms. Hasson made a motion to approve a conditional use pursuant to Section 1245.04(2) of the Pataskala Code for application CU-17-007 with the following supplementary conditions:

1. The applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department prior to operating the facility.

Seconded by Ms. Rhodeback. Ms. Rhodeback, Ms. Hasson., Ms. Baird, Mr. Platte and Mr. Ashcraft voted yes. The motion was approved.

Ms. Baird noted the 30-day appeals process.

Next on the Agenda, remove from table Conditional Use Application CU-17-004.

Mr. Platte made a motion to remove from table Conditional Use Application CU-17-004. Seconded by Ms. Hasson. Ms. Baird, Mr. Platte, Ms. Rhodeback, Mr. Ashcraft and Ms. Hasson voted yes. The motion was approved.

Next on the Agenda, Conditional Use Application CU-17-004.

Mr. Cowan reviewed the Staff Report, noting the applicant is seeking a conditional use to allow for the construction of a 310-foot high Wireless Communications Tower on the property. The proposed facility would be located in the south-east corner of the vacant property roughly 270 feet from the south property line and roughly 180 feet from the east property line. Wire anchors are proposed to be located in the three guy easements setback at least 100 feet from the property lines. The gravel driveway would extend off Refugee Drive along the east property line and turn into a gravel turnaround surrounding the base facility. The proposed use is a Conditionally Permitted Use under the PM – Planned Manufacturing zone district. Mr. Cowan further stated according to the narrative, this site was chosen by Verizon Wireless to remedy a significant service capacity gap in the area and an additional facility is required to accommodate the increasing consumer base. Several other locations were evaluated but failed to meet their requirements. The proposed facility would be unmanned and would not create excessive noise, smoke, or traffic. A letter from the applicant's attorney addressing the requirements of the code has been included with the report. If the conditional use is approved by the Board of Zoning Appeals, the applicant must submit a Planned Manufacturing application through the Planning and Zoning Commission for site design approval pursuant to Section 1253.07 of the Pataskala Code. The Public Service Director has commented that a right-of-way permit would be required prior to installing the driveway and also requested that an erosion control plan be submitted to the City.

Nathan Meyer, 6869 Windjammer Drive, Brownsburg, Indiana, was placed under oath.

Mr. Meyer noted the reasons for conditional uses and noted meeting or exceed the requirements. Mr. Meyer indicated meeting those requirements in different counties throughout Ohio and feels there's nothing different for this Board's approval. Mr. Meyer further stated cell towers being placed in industrial districts. Mr. Meyer listed different intense uses permitted in the PM District. Mr. Meyer noted public utility facilities along with a study regarding subdivisions located near towers.

Jeffrey Lewis, Esq., 500 South 4th Street, Columbus, Ohio, on behalf of Cumberland Estates, LLC, and Ronald Sabatino, 7825 Breen Circle, Dublin, Ohio.

Mr. Lewis noted concerns of his client. Mr. Lewis also submitted and reviewed Exhibits A, B and C for the record.

Mr. Sabatino gave an overview of his qualifications.

A discussion between Mr. Lewis and Mr. Sabatino regarding Cumberland Estates and concerns regarding the cell

tower.

Ms. Baird inquired as to the due diligence of purchasing the property across from a PM District and the uses that are allowed.

Mr. Sabatino noted the property is a Planned District and needing to meet the conditions of the Planned District.

Ms. Baird asked if the development would benefit from using a cell tower if they have a 911 emergency.

Mr. Sabatino noted no evidence presented of any deficiency with access provided by 911. Mr. Sabatino indicated other towers located in the area, and noting appropriate heights for towers.

Setbacks, number of homes and school districts were discussed.

A clarification was made regarding 1215.05(e)(4).

Ms. Rhodeback noted over 20 cell towers within 20 miles of Pataskala and asked what the median heights are for those towers.

Mr. Meyer reviewed the Statement of Compliance, Page 24, regarding existing wireless towers.

Andrew Walther, 7899 Columbia Road, was placed under oath.

Mr. Walther stated no issues with Mr. Phillips developing the property, but would like him to take into consideration flight paths and FAA requirements and concerns with a tower in a flight path. Mr. Walther noted doing research and adverse effects in multiple searches regarding declines in property value due to a 300 foot tower. Mr. Walther stated 310 feet is unacceptable, but is not against a reasonably-sized tower. Mr. Walther further explained a conditional use is a condition and not a given. Mr. Walther noted having no issues with 911 service and looking at a 300 foot cell tower would be detrimental to property values.

Jeff Wayne, representing Ryan Homes, 8351 North High Street, Columbus, was placed under oath.

Mr. Wayne reiterated the cell towers effect on selling homes and property value and noted the Mason, Ohio cell tower.

A discussion was had regarding data issues, personal devices.

Mr. Meyer noted STC attorney's letter and reiterated meeting the requirements and requesting approval.

Mr. Platte asked Mr. Meyer if it is still his position for the Board to act on the application as submitted, as opposed to a lesser height or different location.

Mr. Meyer stated in the affirmative.

Mr. Platte asked if Section 1215.05(a) is disputed.

Mr. Meyer stated Staff notes they meet the requirements.

Ms. Rhodeback asked why no landscaping is listed.

Mr. Fulton noted the Planning and Zoning Commission will review lighting, screening, etc.

Mr. Walther inquired as to an FAA permit.

Ms. Baird noted that would go before the Planning and Zoning Commission.

Mr. Lewis cited 1215.05(a)(6) regarding screening a 310 foot tower. Mr. Lewis asked that the presentation that has been made with respect to credibility regarding the tower's use for more data coverage and not 911 service. Lastly, Mr. Lewis commented regarding granting the use because something worse could be placed there.

A discussion was had regarding the 10-year old study of impact of cell phone towers on residential neighborhoods and the 2016 study stating no correlation between proximately to nearby towers and property values.

Mr. Meyer noting having FAA approval.

Ms. Baird asked if there's a letter regarding FAA approval specifically for this location.

Mr. Meyer noted in the affirmative.

Mr. Platte made a motion to recess. Mr. Ashcraft seconded the motion. Mr. Ashcraft, Mr. Platte, Ms. Baird, Ms. Rhodeback and Ms. Hasson voted yes. The motion was approved.

Back on the record at 8:27 p.m.

Ms. Baird asked the Law Director what the Board should do next.

Mr. Glasgow noted the meeting is a quasi-judicial hearing, having the option to request his legal counsel and deliberating in private.

Mr. Platte made a motion to close testimony and deliberate privately with Counsel. Seconded by Ms. Rhodeback. Mr. Ashcraft, Mr. Platte, Ms. Baird, Ms. Hasson and Ms. Rhodeback voted yes. The motion was approved.

Mr. Platte made a motion to re-open the hearing at 9:10. Seconded by Ms. Rhodeback. Mr. Ashcraft, Mr. Platte, Mr. Baird, Ms. Rhodeback and Ms. Hasson voted yes. The motion was approved.

Mr. Platte made a motion to reopen testimony. Seconded by Mr. Ashcraft. Mr. Ashcraft, Mr. Platte, Ms. Baird, Ms. Rhodeback and Ms. Hasson voted yes. The motion was approved.

Mr. Platte asked if there were to be some considerations from the Board, would Mr. Meyer's client be willing to relocate the tower.

Mr. Meyer noted his client would like the application to go forward as stands.

Findings of Facts were reviewed.

Mr. Platte made a motion to disapprove a conditional use pursuant to Section 1253.04(17) of the Pataskala Code for application CU-17-004. Seconded by Ms. Rhodeback. Mr. Ashcraft, Mr. Platte, Ms. Baird, Ms. Hasson and Ms. Rhodeback voted yes. The motion was approved.

Ms. Baird noted the appeals process.

Next on the Agenda, Findings of Facts.

Variance Application VA-17-009:

- | <u>Yes</u> | <u>No</u> | |
|------------|-----------|--|
| ✓ | | a) <i>Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property;</i> |
| ✓ | | b) <i>Whether there are unique physical circumstances or conditions that prohibit the property being developed in strict conformity with the zoning regulation such that a variance is necessary to enable the reasonable use of the property;</i> |
| ✓ | | c) <i>Whether the variance requested is substantial;</i> |
| ✓ | | d) <i>Whether the essential character of the neighborhood would be substantially altered or the adjoining properties would suffer a substantial detriment as a result of the variance;</i> |
| ✓ | | e) <i>Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property;</i> |
| ✓ | | f) <i>Whether the variance, if granted, will be detrimental to the public welfare;</i> |
| ✓ | | g) <i>Whether the variance, if granted, would adversely affect the delivery of government services;</i> |
| ✓ | | h) <i>Whether the property owner purchased the subject property with knowledge of the zoning restriction;</i> |
| | | i) <i>Whether the property owner's predicament can be obviated through some other method than variance;</i> |
| ✓ | | j) <i>Whether the variance, if granted, will represent the minimum variance that will afford relief and represent the least modification possible of the requirement at issue; and,</i> |
| ✓ | | k) <i>Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.</i> |

Mr. Plate made a motion to approve Findings of Fact for VA-17-009. Seconded by Ms. Hasson. Ms. Baird, Mr. Plate, Ms. Rhodeback, Mr. Ashcraft and Ms. Hasson voted yes. The motion was approved.

Conditional Use Application CU-17-007:

- | <u>Yes</u> | <u>No</u> | |
|------------|-----------|---|
| ✓ | | 1. <i>Is in fact a conditional use as established under the provisions of Title Three of the Planning and Zoning Code for the specific zoning district of the parcel(s) listed on the</i> |

- ✓ application.
- ✓ 2. *Will be harmonious with and in accordance with the general objectives or with any specific objective of the City comprehensive plan and/or this Code.*
- ✓ 3. *Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
- ✓ 4. *Will not be hazardous or disturbing to existing or future neighboring uses.*
- ✓ 5. *Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
- ✓ 6. *Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.*
- ✓ 7. *Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare, including but limited to excessive production of traffic, noise, smoke, fumes, glare, odor, potential for explosion, and air or water pollution.*
- ✓ 8. *Will have vehicular approaches to the property which shall be so designed as to not create an interference with traffic on surrounding public thoroughfares.*
- ✓ 9. *Will not result in destruction, loss or damage of a natural, scenic, or historic feature of major importance.*

Ms. Rhodeback made a motion to approve Findings of Fact for CU-17-007. Seconded by Ms. Platte. Ms. Rhodeback, Ms. Hasson, Ms. Baird, Mr. Platte and Mr. Ashcraft voted yes. The motion was approved.

Conditional Use Application CU-17-004:

- | <u>Yes</u> | <u>No</u> | |
|------------|-----------|---|
| ✓ | | 1. <i>Is in fact a conditional use as established under the provisions of Title Three of the Planning and Zoning Code for the specific zoning district of the parcel(s) listed on the application.</i> |
| ✓ | | 2. <i>Will be harmonious with and in accordance with the general objectives or with any specific objective of the City comprehensive plan and/or this Code.</i> |
| ✓ | | 3. <i>Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.</i> |
| ✓ | | 4. <i>Will not be hazardous or disturbing to existing or future neighboring uses.</i> |
| ✓ | | 5. <i>Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.</i> |
| ✓ | | 6. <i>Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.</i> |
| ✓ | | 7. <i>Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare, including but limited to excessive production of traffic, noise, smoke, fumes, glare,</i> |

- ✓ *odor, potential for explosion, and air or water pollution.*
- ✓ 8. *Will have vehicular approaches to the property which shall be so designed as to not create an interference with traffic on surrounding public thoroughfares.*
- 9. *Will not result in destruction, loss or damage of a natural, scenic, or historic feature of major importance.*

Mr. Platte made a motion to approve Findings of Facts for Conditional Use Application CU-17-004. Seconded by Ms. Hasson. Ms. Rhodeback, Ms. Hasson, Ms. Baird, Mr. Platte and Mr. Ashcraft voted yes. The motion was approved

Next on the Agenda, adjournment to the July 11, 2017 meeting.

Ms. Rhodeback made a motion to adjourn the meeting. Seconded by Ms. Hasson. Ms. Hasson, Mr. Platte, Ms. Rhodeback. Ms. Baird and Mr. Ashcraft voted yes. The motion was approved.

The meeting was adjourned at 9:25 p.m.

Minutes of the June 13, 2017 meeting were approved on

_____, 2017.

Chairperson Baird