

**VILLAGE of SUGAR GROVE
PLAN COMMISSION/ZONING BOARD of APPEALS
MINUTES OF APRIL 18, 2007 MEETING**

1. CALL TO ORDER

The regular meeting of the Sugar Grove Plan Commission/Zoning Board of Appeals (ZBA) was called to order at 7:00 p.m. by Chairman Irv Ochsenchlager in the Village Hall Boardroom.

2. ROLL CALL

Plan Commission/ZBA Members Present

Steve Benesch, Bob Dray, James Eckert, Barbara Manzanares, Irv Ochsenchlager, Ryan Reuland and Ed Saloga.

Quorum established

Also present

Village Planner Mike Ferencak, Village Attorney Peter Wilson

3. APPROVAL of the MINUTES of the MARCH 21, 2007 MEETING

Eckert made a motion to approve the minutes of the March 21, 2007 Plan Commission/ZBA meeting as corrected. Benesch seconded the motion

The motion carried by unanimous voice vote.

The correction made was on page 2, last paragraph. Ryan Reuland was absent relative to the motion for the Rich Harvest Farm Dormitory.

4. PUBLIC HEARING

- a. Petition 06-001: Norris Road Cellular Tower - Special Use, Variances, Preliminary and Final Plat**
(American Tower, Petitioner)

Chairman Ochsenchlager swore those intending to give testimony .

Petitioner's request

A Special Use to permit an existing communications tower in the R-1 Low Density Residential District with lot size 2,500 S.F. instead of 40,000 S.F. and lot width 50' instead of 150' at building setback line deviations.

Variance to waive the requirement for the lot to have public street frontage.

Variance to allow 100% lot coverage instead of the maximum allowed lot coverage of 45%.

Variance to reduce the minimum required front building setback of 30.00 feet to 1.00 feet, to reduce the minimum required south side yard setback of 15.00 feet to

5.00 feet, to reduce the minimum required north side yard setback of 15.00 feet to approximately 14.00 feet and to reduce the minimum required rear setback of 30.00 feet to approximately 5.00 feet.

Staff information

Ferencak told the Plan Commission/ZBA that the cell tower in question is surrounded by the Meadowridge Villas Subdivision. The site was annexed into the Village in 2005. The communications tower was installed on this site prior to annexation into Sugar Grove. With the annexation the property came in as an R-1 zoning. The Petitioner has come to the Village proposing improvements to the site, which would then require the site to come into conformance with the Village code. To do that the cellular tower would have to have approval for a Special Use. The lot size and setbacks deviate from code.

There are several variations from code that must be addressed, which were addressed in the Petitioner's request as listed above.

Also, in order to designate the lot as a lot of record in the Village, a Preliminary and Final Plat must be approved and recorded.

The owners of the property are Douglas, Richard and Howard Cooper. The property is leased by Nextel Communications. American Tower Corporation is the applicant for US Cellular and DLS Computer Services. These requests came to be because the Petitioner wants to add two additional tenants (antennas), US Cellular and DLS Computer Service.

In addition to the antenna an equipment shelter and other related equipment are proposed to be installed on the site.

After review, Staff recommended denial of the improvements and therefore denial of the Special Use, Variances and Preliminary and Final Plats. Should the Plan Commission/ZBA chose to recommend approval of the Petition, there are 28 conditions that must be addressed and included in the recommendation.

Petitioner's Presentation

Mel Motley, American Tower Corporation Zoning Specialist, then took the floor and presented the requests.

She reiterated the requests being made. The tower was originally built in 1996 during which the property was in Kane County's jurisdiction.

She spoke about the easement on the old north road, which was recorded in 2002. Motley for the record submitted a copy of that recorded document as an exhibit. She said that in 2006 the Village approved the Meadowridge Villas Subdivision. The developers of Meadowridge (Kensington) encroached upon that easement and destroyed it. American Tower was directed to vacate that easement and

create a new one establishing a 20' easement. She indicated they are working with this developer to establish that easement. Ferencak clarified that the easement in question holds no bearing on whether or not American Tower can expand. If the petition is approved, that easement issue is one the Village would like to have resolved.

Taking issue with Staff's condition on page 10, number 2, which would require removal of the tower and associated buildings by December 31, 2017 or at the end of the fourth lease term, Motley then submitted a copy of a 99 year lease with the property owners, which was recorded in 2006. That condition Staff set down would create problems for them for they have lease agreements with the customers now on and proposed to be on the site. Ferencak said the condition's intent was to have the site cleared after some point in time.

As far as the additional landscaping requested, the area all around the tower site was sold to the developer. They will work with the developer to resolve the issues of the easement and landscaping.

The plans for improvement are the addition of two antennas; US Cellular's at the height of 150' and DSL's at 160'. Additional equipment would be installed to service the two new tenants. They plan to install slats in the chain link fence. Motley then distributed color photos of the site as it exists.

Public Questions and Comments

Alan Kemp, Vice President of the Prestbury Citizens Association was given the floor. Kemp said there was no mention of the amount of decibels that would be generated by the generator. He questioned how many times the 25 kW generator would go on? David Sparago, American Tower Operations Manager responded that he did not have an answer as to how many times it would go on. The generators would be sheltered so that when the power kicks on, the noise is minimized. Most co-locators generators are outside however.

Pam Knapp, a resident of Meadowridge Villas, lives directly across from the tower site. She questioned how much traffic would be coming in and out of the tower site? Sparago said site supervisors visit once a year, contractors to maintain the equipment visit three times a year, carrier technicians come once every two months. These people will not be coming in with big trucks but with pick up trucks. During the co-location a crane with a low boy semi and semi trucks will be coming in to install the improvements. Once that is done, the minimal traffic would be as first stated.

Marilyn Tosti, of 1920B Glenwood Circle, said the tower is just about in her backyard. Her concern was regarding the aesthetics of the site. She would like the landscaping trees now in to have been of a greater height, or as an alternative have a vinyl fence to buffer the view. Also, there are two boxes on the site that

rattle a great deal, which is disturbing. Sparago indicated they planned to install a wood, board on board fence or a stockade cedar fence probably up to an 8' height. He assured her that as a company they want to make their neighbors comfortable. The air conditioners are probably what Tosti is referring to in regard to the rattle. and indicated he would try to solve the rattling sound. Motley said a wood fence and additional landscaping would soften noise coming from the site.

Rod Eggleston, of 1817A Glenwood Circle, in Meadowridge Villas, supported the Staff in its recommendation to deny the petition and encouraged the Plan Commission/ZBA to recommend denial. He said when Motley was accusing the developer and others for infringing on their easement and other rights, he thought it was just the opposite. He said the common good would not be served by approving the petition. When he and his wife bought their home they knew the tower was there, but had no idea that it would be expanded. He plans to attend the Village Board meeting where this issue will be addressed and speak in opposition.

Chuck Bendowski of 1357 Hall, resident of Walnut Woods Subdivision, asked if there would be any ongoing frequencies that would be detected by humans and animals. Sparago noted he was not an engineer, but in his years of experience with tower sites harm to humans and animals does not occur. Bendowski asked if it would be possible for the Petitioner to do a study on the noise and frequency levels to alleviate his concerns? Sparago said he would inquire of their engineering group. He will also ask US Cellular and Nextel if they have any decibel levels records of their equipment. Bendowski asked if there would be any changes to the height or color of the tower. Sparago said no.

Bendowski asked if the frequency could cause interference with home appliances and TVs? Sparago said the FCC does not allow frequencies to cross over. If interference does occur the carrier must be made aware of it. He has not heard of interference occurring.

A Ms. Platz asked what the benefit was for Sugar Grove to allow these improvements? Saloga believed there was not any direct financial benefit for the Village. The Village does not receive any rent or other fees. Motley responded by saying the site pays property taxes, but she did not know the amount.

Eggleston questioned Motley as to why American Tower didn't think the site was giving it a good return at the moment? Do they need a better return on their investment with the additions proposed? Motley said they are responding to an increasing demand. As far as the amount of financial benefit derived from the improvements, she did not have knowledge of that.

Close of Hearing

With no further comments or questions, Chairman Ochsenschlager closed the public hearing on Petition 06-001 at 7:30 P.M.

5. OLD BUSINESS - None

6. NEW BUSINESS

a. Petition 06-001: Norris Road Cellular Tower - Special Use, Variances, Preliminary and Final Plats

Plan Commission/ZBA Discussion and Action

Manzanas asked when the 99-year lease was executed? Motley said August 1, 2006. Ferencak said the Village did not have a record of the new lease.

Dray had a number of questions of Motley:

He asked for more information about American Tower Corp. itself, how many sites the company had in Illinois, if they typically had multiple antennas on their towers, and was the site in question the only one they had in Sugar Grove?

Motley answered that American Tower holds cell tower sites. There are approximately 1,000 of their tower sites in Illinois. They do typically have multiple antennas on their towers. Some municipalities are opposed to having six towers and prefer co-location. Yes, the existing one was the only one American Tower had in the Village. They do have other sites in Kane County. Ferencak noted there was one other tower in the Village, on Bliss Road near the Sportsman Club. It too was built prior to being annexed.

Dray surmised that it is beneficial to these carriers to facilitate them by adding service in particular areas. It is cheaper for them to pay to go piggyback onto American Tower(s) than to go to a municipality to acquire their own site. It is also beneficial to American Tower to generate more income by having three antennas on the site than only one. Motley said when sites are available a single user can develop its own tower, but the demand encourages multiple users on towers.

Dray questioned if American Tower typically seeks sites within county jurisdictions perhaps because it is easier to get approval? He asked if one had more stringent requirements than another (municipalities versus county)?

Motley said she had dealt with various jurisdictions. Some county requirements can be stricter than some municipalities.

Eckert also had several questions:

He asked if the Petitioner was considering putting in a permanent generator because of the additional services are being brought on site? Sparago said it was because US Cellular wants to have a permanent generator instead of bringing in a portable should there be a power outage. Fuel to power the generator would be on site and encased.

Eckert asked if there was a method to report problems occurring on the site? Sparago said there was sign posted on the site giving an emergency number for people to call in any problems. This same number can be used for other non-emergency communication as well.

Eckert had concern about the weight piggybacking compromising the strength of the tower and about its possible collapse. Sparago said the engineering on the tower accommodates any additional antenna at a tenfold failure rate. In tornado (microburst) they have experienced the collapse of two towers. They are engineered to collapse on themselves.

He asked if the shelters could be of the same design. Sparago said they would ask DSL to match their shelter.

Eckert asked if the site would be used for any other storage than what is currently proposed? He also talked about the new lease and if it had certain requirements spelled out, i.e. testing soil for any spills. Ferencak said the lease was between American Tower and the Coopers. The Village is not guaranteed anything. Attorney Wilson explained that the lease makes reference to a memorandum that pertains to conditions and terms and are not typically a part of the lease itself. They only had to record the lease but didn't have to include the memorandum. Ferencak said the Village would like to have a copy of the memorandum.

Benesch asked if the fuel generators were run off of natural gas. Sparago did not know what US Cellular plans, but most of the time they are diesel.

Saloga said he could support the petitioner's requests if the site were made aesthetically pleasing and had a masonry enclosure. It is not sited suitably in a residential district. It would be better off in a cornfield or very rural area. Now the site is an eyesore. Just a chain link fence in his view is not acceptable. Sparago said that in regard to the type of fencing, there is concern about security. With a chain link fence people (and curious children) can see what's inside. With a solid fence people can't see in and may be tempted to gain entrance out of curiosity.

With no further discussion or questions, Chairman Ochsenschlager called for a motion.

Reuland made a motion to recommend to the Village Board denial of the requests made in Petition 006-001 submitted by American Tower Corporation, those being for a Special Use, Variances and a Preliminary and Final Plat approval. Manzanares seconded the motion.

Roll Call Vote on the Motion:

Ayes: Benesch, Manzanares, Dray, Reuland, Ochsenschlager

Nays: Eckert, Saloga

Absent: None

Motion carried by a 5 to 2 vote.

The recommendation will be forwarded to the Village Board.

7. PLAN COMMISSION/ZBA COMMENTS, PROJECT UPDATES and MISCELLANEOUS INFORMATION

a. Southwest corner of Illinois Route 47 and Park Avenue

The Landings development is subject to review by the Village Attorney. The development will be back to the Village Board for its next meeting.

b. Rich Harvest Farms Dormitory

The matter is scheduled for an upcoming Village Board meeting for the rezoning and special use.

c. Subdivision Ordinance

Chapters 1 through 4 have been completed and will be forwarded to the Village Board in the near future. Staff is now working on Chapters 5 through 7.

d. Downtown Study

The study was presented to the Village Board for its initial comments. It will go back to the Board on May 15 for discussion.

e. Newly Elected Village Board Members

Ochsenschlager offered congratulations to the candidates that won yesterday's election and condolences to any that were unsuccessful. Those elected will officially take office after the canvas has been completed.

8. ADJOURNMENT

Benesch made a motion to adjourn the meeting. Dray seconded the motion. By voice vote the motion carried unanimously.

The meeting was adjourned at 8:18 P.M.

Respectfully submitted,

Nancy Zak
Recording Secretary