

**CITY OF CIRCLEVILLE
PLANNING AND ZONING COMMISSION
104 EAST FRANKLIN STREET
CIRCLEVILLE, OH 43113
(740) 477-8224**

Wednesday, February 7, 2018
City Hall Council Chambers

MEETING MINUTES

Members Present

Al Sedlak
Don Sherman
Terry Leasure
Marsha Griebel Graham
Mike Combs
Brenda Short, Clerk

Visitors Present

Rob Ferguson
David Betz
Don Walker
John Ankrom

Chairman Al Sedlak called the meeting to order at 6:05 p.m.

The first item on the agenda was Public Hearing as requested by Rob Ferguson c/o Verizon Wireless, 7575 Commerce Court, Lewis Center, OH 43035, to rezone a .55 acre tract of land located south of East Franklin Street between Court Street and South Pickaway Street, better known as 151 East Franklin Street, Circleville, OH 43113, to be rezoned from DB, Downtown Business District to SU, Special Use District, for the purpose of enhanced communications.

Rob Ferguson was sworn in and stated I am with United Acquisition Services, representing Verizon Wireless. We are one of the Central Ohio Consultants for Verizon Wireless.

Al Sedlak stated what we are dealing with is the building on East Franklin Street that houses the Circleville Police Department and the Circleville Municipal Court. Please tell us why it is necessary or desirable that the property be rezoned to SU, Special Use District.

Rob Ferguson replied the request is to rezone it. I am told it is needed because the only district that the City of Circleville will prohibit a cell tower in is SU, Special Use District. That is the original purpose for the rezoning request.

Al Sedlak stated the cell tower will be used not only for the city government, police and fire emergency services, but also commercial use, is that correct?

Rob Ferguson replied when we started this process we looked at a lot of other sites. Our challenge with downtown Circleville, as you all know, is the downtown portion is in a large part of the Historic District and there are a lot of historical places here. Even from your zoning process, makes my job

more difficult. The other aspect that with a high degree of difficulty is that you have flood plain along the east side near the highway and the river. We looked at Cargill, AEP, Keynes Brothers, Wolfe Construction Company, and a salvage yard on the east side. I actually talked to John Ankrom about a lot of sites back then as well and between the various historical implications and/or just not appropriate places. We had looked all over the place and just couldn't find anything. I finally went back to John and said you have that tower at the police station. We could take that down and reconfigure a stronger tower, transfer the government uses that are on the tower to a new tower and you will have commercial and governmental use. About year and a half ago, AT&T also expressed a desire to be a part of that project. You will essentially have two carriers in close proximity to downtown, which is good. I think all of the carriers have probably encircled Circleville on the outskirts of town. That is typically what they do is pop a tower up on the north, south, east or west and they will blow a signal in. Eventually, they are going to run in to capacity problems. I am just making my observations on things I have seen here. I know Verizon has a system of small cells here. I believe Sprint Mobility also has a system of small cells here. The small cells come in when they have capacity problems. Those offload the existing macro sites that are really just getting hammered by smart phones, I Pads, cell phones and any other wireless devices that are out there, which are only increasing. The broadband data growth is projected to grow seven times by 2020, so it is just shooting through the roof. The only thing that cures that is a fat broadband pipe and antennas that will essentially free up the signal on the macro sites and fine tune the network with different points of presence. The ability to put two carriers in close proximity to the most congested part of Circleville is going to really help with those capacity problems. Just to back up a little further, this whole project really started with the need to get coverage for the Pumpkin Show. I am not sure who the call came from but the call came from somebody at the County. They asked if Verizon could help with the Pumpkin Show. For a number of years Verizon put a temporary tower down by the Police Station for the Pumpkin Show. When they put their small cell system in, they didn't think they would need that additional capacity and AT&T then took that spot. They have been the temporary tower at that location for the last two years and I think three to four years prior to that it was Verizon. Now you have both companies that are vying for a centrally located tower, plus you will have your emergency services that are still located at the Police Station. They will still have their point of presence and get two or three means of service there.

Al Sedlak asked if this tower will be on the west side of the building?

Rob Ferguson replied it is. There is a green space there on the west side of the building. It will move about 80 feet north. It will be a larger tower. We have a lot of criteria mostly being driven by the State Historic Preservation Office which says if you are going to replace an existing tower you can only really build it 10% higher than what is existing of the highest of pertinence. You have about 128' over there to the tallest whip antenna. Our tower right now is a total height of 138'. It is 120' tall with a 20' whip and it is not projected to go any taller. We will be at 132' overall with a 4' lighting rod and the top of steel will be at 128'. Verizon will be at located at 122' and I believe AT&T will be at 115'. Verizon then has a second plateau, only for the Pumpkin Show, with just one sector blowing this way at 75'. We are still trying to map out which equipment from emergency services perspective will transfer from the old tower to the new tower. We should have that worked out within the next couple of weeks.

Al Sedlak asked do you feel this new tower will be necessary both to ensure reliable service and to increase capacity for the future.

Rob Ferguson replied in a nutshell, yes. Every town that is outside of I-270 for Columbus being the largest metropolitan area as I described earlier and the more rural or semi-rural communities they are going to try to cover from the outside first. We are 25 to 30 years in to cell tower network design and

those sites are already gone. Verizon and AT&T have been around the longest, those carriers and soon Sprint and T-Mobile too, will need to be in where the people are in most cases. It is one thing if your town doesn't have a cell tower at all, then sure they can probably pop one on either side of it and cover it for a while. However, sooner or later the proliferation of the devices and the fact that those devices are doing a lot more than just placing a telephone call requires capacity service. Everyone has seen that little wheel that spins on your phone when something is taking too long to either upload or download. The principal concern right now is to make that better.

Don Sherman stated we did submit some pictures of the proposed. The pictures show the before and after. On the front (before) picture, the antenna is halfway between the light post and chimney in the background, it is real light. The front (after) one is behind the light post, you have to really look close.

Rob Ferguson said I apologize. These are the photos that I had that I could take advantage of in such a short notice.

Don Sherman stated it is much clearer on the second page. That would be looking from the alley across the street from the tower. The other thing I would say is from the City standpoint, the ownership of the cell tower will be Verizon. This will relieve the City of liability of maintaining their existing antenna towers, which is getting quite old.

Al Sedlak asked if any other members of the Commission had any questions for Mr. Ferguson.

Don Sherman stated the 151 W. Franklin Street address is the Police & Court Building. There are actually two lots there and the lot they are talking about is actually 147 W. Franklin Street.

Rob Ferguson stated at some point we will ask you for a certified address for that tower because it will be plugged in to E911 system.

Don Sherman stated the old fire station that was there was 147 W. Franklin Street. I know that one of their issues is that the foundation is still in place.

Rob Ferguson stated we have done quite a bit of investigating to make sure that this location is okay from a historical stand. We also did an exercise that we call a test pit where we knew there were some pieces of that foundation that were still there and we of course have to put caissons underneath this tower which will be concrete and deep. Since it is a three legged tower there will be caissons around 20 feet deep. We don't have the foundation design back yet. We need to find stable soil and we can't have anything that will shift or if we have to drill through some substantial foundation, we just need to know about it ahead of time so that we can plan accordingly. That is one of the things we have done here is to look at and excavate the location of the base of the towers so that we know it can exist from a physical standpoint without causing any other detrimental effect.

Al Sedlak asked if anyone in the audience wanted to speak on this issue. This is the public hearing portion of it so this is the opportunity for anyone from the public to speak on this matter, either for or against. If there are no other persons wishing to speak on this issue we will close the public hearing portion of our February meeting and proceed with matters on our agenda.

The first item on tonight's agenda is the election of officers. We deferred this from our January meeting to this meeting because there were only four people here last month. Even though that is a quorum, it was found that it might be better served to try to push it back to a meeting where more of the members

are present. I will let it out to the commission, do you wish to do that when only five of us are here this time? Do you want to proceed with election of officers?

Don Sherman replied I have no problem with electing the officers.

Terry Leasure I say let's do it.

Al Sedlak stated we will proceed then, first for Chair. Do we have any nominations?

Don Sherman stated I nominate that the slate be the same as it has been.

Al Sedlak stated I am trying to think if that has ever come up before, as opposed to going through one-by-one and I don't see any reason why we couldn't.

Don Sherman motioned to approve that the slate be presented as it was in 2017, seconded by Terry Leasure. All in favor, motioned approved.

The next item on tonight's agenda is approval of the January Meeting Minutes. I have two minor corrections. On page 2, down toward the bottom of the fourth to last paragraph it starts Terry Leasure motioned to approve and seconded by Dorcas Morrow. There were only four of us present and we all voted yes, but in the third line of the paragraph it says 5 YEAS and it should be 4 YEAS. In the next paragraph in the second line, right around the middle of the line it says they are companied. That should be companion issues. Those two minor corrections are the only ones that I would have. Does anyone else have any corrections, additions or any other changes to the meeting minutes as provided? If not, can we have a motion to approve?

Terry Leasure motioned to approve the minutes, seconded by Mike Combs. All in favor, meeting minutes stand approved with the two corrections.

The next item on tonight's agenda is the matter for which we just had a Public Hearing and vote on recommendation to forward to City Council, the rezoning of 151 East Franklin Street, Circleville, OH 43113, from DB, Downtown Business District to SU, Special Use District.

Al Sedlak stated again, what we are voting on is not the actual rezoning, but the recommendation to City Council, either yes or no, to approve the rezoning request. Mr. Ferguson is there anything further you care to speak on, I know you covered it pretty well at the Public Hearing portion. If there is anything further you would like to address, please do so.

Rob Ferguson was sworn in and stated we do have one other point we are trying to make. We have been at this a long time and have looked at a lot of sites. I think there has been a delay, mainly on the carrier's part and various things that we have to go through for the process. However, the fact that the small cells are now here and there is still a problem during Pumpkin Show, Verizon is requesting that we try to get this sight constructed prior to this fall. They will have to tune it for 30 days. There is somewhat of a sense of urgency to keep things moving in a positive direction. We have eliminated so many of the question marks at this point, short of permission from the Planning Commission and City Council for the Rezoning and Conditional Use. I would just state that they are pressing upon our development team to have zoning and typical processes of things wrapped up by June. If we miss those dates, then we are probably slide past October for sure.

Rob Ferguson stated for the record, right now we don't really have the fencing or what may be called out around the base of the tower is probably a chain length fence. I know that we always put that as our lowest common denominator because every time we come to a hearing it is usually a dialogue between the land owner and the Zoning Authority as to what they want that to look like. One of the challenges of this site is that it is a multi-use facility and it is a critical multi-use facility in the sense that it is the Police Station. We only have so much room to work with. We would probably do here is a board on board fence, or something that would be deemed palatable to those that approve. We can also put some heavy landscaping on what would be the north end of the compound, which is the side that would front Franklin Street, to try to soften that industrial look. There will be cars parked on the side of it and we will have bollards there to protect the compound. AT&T and Verizon are designed to go in roughly I think a 32'x44' compound, along with the tower. That is set a little bit off of the building because there is a fiber line running north and south along there that we want to try and avoid, plus this just seemed to be the right type of configuration for the site. We can come to a compromise on how to screen it and try to soften the look a little bit.

Al Sedlak asked if anyone in the audience wanted to speak on this issue, or if anyone on the board had any questions or comments for Mr. Ferguson. If not, can we have a motion to positively recommend the rezoning request to City Council?

Don Sherman stated I just want to clarify that this is only the rezoning, the Conditional Use is separate. I will need to abstain since it is city property.

Al Sedlak stated just to point out for the record, Don is a city employee and the rezoning is for city property. It was made known to me before the meeting that he and the Mayor would need to abstain. I am also a city employee as Court Magistrate. I am not going to abstain. My rational for this is that Don and the Mayor are an employee and elected official, respectively, and working the executive branch of City Government. As a Court Magistrate, I work for the Judicial Branch. I am not in the chain of command and I am not involved in the functions of the Service Department or the Mayor's office. If something would come before us that would deal with the Municipal Court, the Clerk's office or the Court system, I probably would find it necessary to abstain. However, in this particular case I do not feel that I need to. I wanted to voice that for the record in case the question would come up later.

Terry Leasure motioned to positively recommend the rezoning request to City Council and seconded by Marsha Griebel Graham. VOTE ON MOTION: MIKE COMBS, YEA; AL SEDLAK, YEA; MARSHA GRIEBEL GRAHAM, YEA; TERRY LEASURE, YEA; DON SHERMAN, ABSTAIN. 4 YEAS, 0 NAYS, 1 ABSTENTION; MOTION CARRIED.

The next item on tonight's agenda is a companion issue to the rezoning request. This is Conditional Use #1-18, as requested by Rob Ferguson c/o Verizon Wireless, 7575 Commerce Court, Lewis Center, OH 43035, to install a new 130 foot cell phone tower in an area zoned Historic Downtown Business District.

Al Sedlak stated everything in the SU, Special Use District is a Conditional Use, which would require this vote and this approval. Mr. Ferguson, I don't know that there is really anything more that you could tell us. You have explained things in depth twice now and I think very well presented it to us. Do we have any other members in our audience have anything to say on this?

John Ankrom asked have you considered the setback variances.

Don Sherman replied yes. We need to include a Variance on this. The code requires communication antennas 100% of the fallback. Honestly, I didn't bring it up because our antenna doesn't need at this point. It is a Conditional Use also and a Variance is part of the Conditional Use.

Rob Ferguson stated we did note the distances to each property line on the survey.

Don Sherman said yes, it is given in the drawings with the form.

Rob Ferguson stated I can send those in electronically, if you would like.

Al Sedlak stated yes, would you do that? Basically the Conditional Use Permit request would be amended to include the Variance setback requirements.

Rob Ferguson stated I would have to do the math, but the tower is 132' overall. We are basically taking the distances from the closest caisson that is a triangular footprint, so there will be three distances. To the north, we are 62.44' where the sidewalk meets the street. To the east, we are 100.8' from the caisson to the west side of east area alley. To the south, we are 88.89' and to the west we are 38.69'.

Al Sedlak stated a Variance is necessary because with the height of the tower, there would be no place to locate or it would not encroach upon the setback.

Rob Ferguson stated I will also say for the record that when we order the tower designs, which will in turn go to building permit, we will order the tower to have a crimp design put in it. The inception of the setback rule, at least for towers, the assumption was that towers would fall like trees or just straight. If you put a crimp point in them, or in most cases they don't do that, they crumple. We will also add the request to the engineering folks that the crimp point be added in to this design.

Don Sherman asked I assume there is going to have to be some kind of light at the top of the tower.

Rob Ferguson replied in this case I don't think so. Generally, 200' is the ceiling for being lit. FAA is run on all of them. I don't think the current tower is lit. We are not going to take that as our rule of thumb and we will have to go through our protocol anyway. We will have documentation on that and I will supply it. Generally, if it is below 200' it doesn't need to be lit, unless it is in the path of something. I will seek to get that documentation and supply it to the city as soon as possible.

Al Sedlak asked does anyone else have any questions or comments. If not, can we have a motion to approve Conditional Use #1-18?

Don Sherman stated there is not currently an agreement between Verizon and the city. City Council has not been presented the agreement for them to build. My suggestion would be that the Conditional Use is conditional on an agreement being made with City Council. If City Council doesn't agree, then this goes away.

Al Sedlak stated whoever raises the motion then can say what was originally included in Conditional Use #1-18, it would include Variance from the setback requirements and the approval will be contingent upon approval of the contract between Verizon and the City of Circleville by City Council.

Marsha Griebel Graham motion to approve Conditional Use #1-18 & Variance with Conditional Use contingent upon approval of contract between Verizon and the City of Circleville by City Council, seconded by Terry Leasure. VOTE ON MOTION: MARSHA GRIEBEL GRAHAM, YEA; TERRY LEASURE, YEA; DON SHERMAN, ABSTAIN; MIKE COMBS, YEA; AL SEDLAK, YEA. 4 YEAS, 0 NAYS, 1 ABSTENTION. MOTION CARRIED WITH CONTINGENCIES.

The next item on tonight's agenda is Variance #1-18, as requested by the City of Circleville, 104 East Franklin Street, for the City of Circleville, for the property located at 802 South Pickaway Street, to install two, 4'x 6' single sided signs totaling 48 square feet and to vary the maximum front yard setback from 25' to 0', in an area zoned GE, General Employment District.

Al Sedlak stated Don Sherman will be abstaining and you will also be making the case as far as what this is and why it is necessary.

Don Sherman stated we recently moved the Water Distribution and Sanitary Sewer Collection Department and it is back down to the Ohio Street shop. We are trying to put signs back on the site so that people know where and what it is. We have a picture of the sign in the packet. It is very similar to the sign that was approved a year ago for the Service Garage on South Washington Street. The only difference is the one for the Service Garage is a two sided sign because there was room to put it out in the grassy area. This site is completely surrounded by a fence. Our proposal is to put a sign near the gate on Pickaway Street and a sign near the gate on Ohio Street.

Al Sedlak asked are those indicated on the photo.

Don Sherman replied yes.

Al Sedlak stated there is very little signage there already, so this is strictly a setback.

Don Sherman we have no signage at this point. We are at 48 square feet and the front of the building is 100'.

Al Sedlak stated it is strictly insufficient front yard setback. Does anyone have any questions or comments? This is pretty straight-forward and pretty minimal signage, the problem is just the set back and there is really no way around it. Can we have a motion to approve Variance #1-18?

Mike Combs motioned to approve, seconded by Terry Leasure. VOTE ON MOTION: MIKE COMBS, YEA; AL SEDLAK, YEA; DON SHERMAN, ABSTAIN; MARSHA GRIEBEL GRAHAM, YEA; TERRY LEASURE, YEA. VOTE ON MOTION: 4 YEAS, 0 NAYS, 1 ABSTENTION. MOTION CARRIED.

The last two items on tonight's agenda are companion items.

The first item is Conditional Use Permit #8-17, as requested by Rocket VII, P.O. Box 370, Gallipolis, Ohio 45631 to install a 199.70 square foot, single sided, Off-Premises Digital Sign at 513 East Main Street, in an area zoned GB, General Business District.

The second item is Variance #22-17, as requested by Rocket VII, P.O. Box 370, Gallipolis, Ohio 45631 to install a 199.70 square foot, single sided, Off-Premises Digital Sign at 513 East Main Street and to vary the message changing intervals from no more frequent than once per 30 seconds to 15 seconds, and the maximum height allowed from 15' to 24', in an area zoned GB, General Business District.

Don Sherman motioned to remove both items from the table, seconded by Terry Leasure. All in favor, motion approved and items are removed from the table.

Al Sedlak stated we dealt with this matter several months ago and I think most of us pretty much remember the presentation that was given at that time, so don't feel that you have to start from square one again and tell us about this. By the same token, refresh our memory and take as much time as you want to inform us as to what you are wanting to do and why it is necessary to get the Conditional Use Permit that is required by the zoning code, and why a Variance is necessary.

Don Walker, P.O. Box 370, Gallipolis, Ohio, was sworn in and stated this will be the third time we have come before you and we have made alterations to our Variances in this process. The one Variance for the Conditional Use is what your code calls for. When it comes to the seconds, the standard for the intervals of the slides across the Nation is 8 seconds. Your code calls for 30 second intervals. We understand that and we were asking to meet in the middle and we would do 15 seconds. Our business model is 8 seconds and to sell the number of ads from the businesses in the community to be on the sign. However, we can make the adjustment to make it 15 seconds. For the height, it is because the location that we are trying to put the sign in is a parking lot. We would need to have it high enough for vehicles to get under with proper lighting for the parking lot and to allow for safety for everyone in the parking lot, and their vehicles. The last time I came before you we spoke that you would need a letter from the land owner stating that he would be willing to take down one of his existing signs to allow us to put the sign on his property. I have that letter and it was emailed.

Don Sherman stated you have a letter from Mr. McNeill, who is the property owner. We did receive an amended letter within the last couple of days. What you have is the amended letter from Mr. McNeill. The original letter was taking the reader board off of the existing pole sign and lowering the Zanzi's sign down to where the reader board is. While that is still his preferred, he has expressed that he is okay to completely remove it, but he would respectfully request that he could put a ground sign in its place since that is right at the entrance to where the right-in/right-out is located.

Don Walker stated that is correct. He is requesting to take the reader board down and lower his Zanzi's sign down and allow us to put our sign up. If the board would like him to remove the sign completely to allow us to put our sign up, he is willing to do that. He does have a preferred course of action.

Don Sherman stated his first option is to lower his sign. The second option would be to remove it, but if he did remove it he would like to have a ground sign that identifies the entry way to Zanzi's. He has actually given us three options.

Don Walker stated that is correct.

Al Sedlak asked is anyone was here to speak on this issue?

David Betz, 9301 Old Tarlton Pike, Stoutsville, was sworn in and stated I am just concerned about the traffic at that intersection. I know there have been a lot of accidents there. I own the house on the corner, so I know a little bit about what the intersection is like. They have enough problems there getting through the intersection coming in from State Route 56. People get in the wrong lane and then they get cut off. Which way is the sign going to face, just one direction? It is only one-sided, right?

Al Sedlak stated correct me if I am wrong, but it is one-sided, facing the intersection.

Don Walker stated that is correct.

David Betz stated so it sits at an angle?

Al Sedlak replied it would have to be.

David Betz stated I fear that someone is going to be sitting there watching the sign and get rear ended. You talk about it going from 15 seconds. Someone will miss something and wait to see the ad come around again. A sign at that kind of intersection is not appealing to me. It would be fine if you would take it out to the Fairgrounds or on an open road. They just put one up on State Route 674 behind the Buckeye Station. It is a big, lighted sign. It is fine out in the open, but not at a busy intersection. I know you have a lot of traffic and a lot of people are going to see it, but that is just my opinion.

Mike Combs stated as far as Off-Premises signs, I can only think of one that we have actually approved over the last few years and it was for the golf course.

Al Sedlak stated yes, I forgot about that. Can we have a motion to approve Conditional Use Permit #8-17?

Don Sherman motioned to approve, seconded by Marsha Griebel Graham. VOTE ON MOTION: MIKE COMBS, NAY; AL SEDLAK, NAY; DON SHERMAN, YEA; MARSHA GRIEBEL GRAHAM, NAY; TERRY LEASURE, NAY. VOTE ON MOTION: 1 YEA, 4 NAYS, MOTION FAILED.

Al Sedlak stated Variance #22-17 should be voted on. Marsha Griebel Graham made a motion to approve Variance #22-17, seconded by Terry Leasure. VOTE ON MOTION: TERRY LEASURE, NAY; MIKE COMBS, NAY; AL SEDLAK, NAY; MARSHA GRIEBEL GRAHAM, NAY; DON SHERMAN, YEA. 1 YEA, 4 NAYS. MOTION FAILED. Variance will be removed since the Conditional Use failed.

Marsha Griebel Graham made a motion to adjourn, seconded by Terry Leasure. All in favor and meeting adjourned.

Submitted by Brenda Short