

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
August 26, 2009

Chairman Curtiss called the meeting to order at 7:00 p.m.

I. Roll Call: Board Secretary Kench called roll.

Members Present: Benison, Curtiss, Ellertson, Kulick, Olivieri, White
Others Present: Kench, Murphy, Appellants, and community members

II. Approval of Agenda:

Motion by Kulick and supported by Benison to approve the agenda. Motion approved unanimously.

III. Approval of Minutes from June 24, 2009:

Motion by Kulick and supported by White to approve the minutes from June 24, 2009, as written. Motion approved unanimously.

IV. Communications:

Kench reported that there were no communications to share at this time.

V. Public Comments:

Curtiss opened the floor for public comments. There being no one who wished to speak, the floor was closed.

VI. New Business:

Board secretary Kench explained board proceedings and noted a quorum was present.

Case 05-2009 – 1403 W. High, Chipp-A-Waters Park.

Kench introduced Case 05-2009, stating that the applicant was proposing the installation of a 140 foot, steel monopole communication tower to be located at the northwest corner of Chipp-A-Waters Park. Section 154.080(9) of the Zoning Ordinance requires a setback of 1 ½ times the height of the tower for Agricultural zones.

Kench provided some background information regarding the variance request. Kench explained that the applicant first began the process in May before the Planning Commission to have a 10-acre portion of this property within the park re-zoned. The request was to rezone the property from R-1 Residential, to A-Agricultural to allow the construction of a cellular tower. This original site would have placed the tower in the open field, just northeast of the Girl Scout cabin. After hearing concerns from residents, members of the Girl Scouts, and the

Parks and Recreation Commission, the Planning Commission recommended the conditional rezone be denied.

The case then went before the City Commission in June, at which time they considered the Planning Commission's recommendation and also listened to concerns from the Girl Scouts and citizens speaking in opposition. The City Commission postponed action at this time to provide staff an opportunity to work with the applicant to consider alternate locations within the park for the cell tower.

The request went back before the City Commission in July, with two alternate locations for the Commission to consider. Staff presented these options to the City Commission, noting that if approved, both of these alternate sites would require a setback variance from the Zoning Board of Appeals. Following discussion, the City Commission approved alternate location #2, contingent on the applicant being granted approval from the ZBA to reduce the setback requirement. During the process, the City Commission also reduced the amount of land area from 10 acres to 1.03 acres to conditionally rezone to A-Agricultural.

Kench presented photos of the surrounding areas, and pointed out that the site was actually in a partially wooded area of the conditionally rezoned site rather than a *heavily wooded* area as mentioned in the Staff report. Kench noted that if the Board considered approving the request for a variance, they (Board) may stipulate that additional plantings be required.

Kench stated that the tower is permitted in the Agricultural zone and requires a minimum setback of 1 ½ times the height of the tower. Kench indicated that these setbacks are required to provide a safe fall zone in the event there is a structural failure. Kench noted that the applicant included in their application and supporting documents an engineering report that indicates that these towers are designed and constructed to fall within a 50 foot radius. The proposed setbacks are 52 feet to the west and 85 feet to the north.

Benison asked if the setback requirement of 1 ½ times the height is pretty standard. Kench indicated that Union Township has a similar requirement; however, allows for administrative flexibility to make adjustments with engineering reports.

Kulick stated that 20 years ago the technology was very different than it is today and different guidelines were needed for safety reasons. Guide wires were widely used in the past, but with today's technology, the towers are designed to drop within a 50' radius at the base of the tower.

Duane Ellis, Director of Public Works for the City of Mt. Pleasant addressed the Board as the applicant for this case. Malcom Fox, Water Superintendent, was also in attendance. Mr. Ellis stated that at the request of the City Commission, they went to the Parks and Recreation Board and then to the Planning Commission, where concerns were heard. They worked with the Parks staff to come up with alternate sites. Mr. Ellis reiterated that the City Commission heard the concerns from the public, and various commissioners visited the site to see the two alternate locations that were staked out. At the final City Commission meeting, they

approved the third site (Alternate Location #2), feeling it had the least impact on Park Activities and the Girl Scout camp, and contingent upon a setback variance.

Mr. Ellis referred to Commissioner Kulick's comments regarding the design of the pole and the improvement in technology, and how the poles are designed to crumble if they go down, but that these towers typically do not fail. He further indicated that this would be a revenue source for the City, generating approximately \$90,000 a year to the general fund. How to best utilize the revenue would be a decision for the City Commission.

Kulick asked what the diameter was at the base of the tower. Mr. Ellis stated it was 4-5 feet. He stated that the city currently has two similar towers; one near the Waste Water Treatment plant and one near the freeway, neither of which are very noticeable.

Benison asked how tall the surrounding trees were. Mr. Ellis stated he thought they were approximately 40-50 ft.

Kulick asked about lights on the tower and asked if we could be assured there would be no bright strobe lights on the tower. Mr. Ellis indicated they did not have to put lights on the tower as it is far enough from the airport not to be in air space. The tower would have no lights and would produce no noise.

Kulick asked when the city would actually take ownership of the tower. Mr. Ellis indicated it would be deeded to the city immediately upon completion. Metro PCS will construct the tower. The agreement is to allow them to occupy the tower rent-free for the first five years. In addition, there will be space available for other communication providers to allow us to begin getting revenue immediately.

Benison asked if the proposed enclosure would be large enough to accommodate other carriers. Mr. Ellis indicated the maximum size of the enclosure would be 40' x 60' and would surround the tower and equipment. There will be a 10 ft. wooden enclosure and landscaping as required by the Planning Commission. Kench indicated that any revisions from the approved plan would need to be considered by the Planning Commission for an amendment.

Chairman Curtiss opened the Public Hearing. There being no one who wished to address the Board, the Public Hearing was closed.

Kench shared the correspondence received regarding Case 05-2009. The Fire Department went on record as having no concerns with the project. A letter was received from the Parks and Recreation Commission going on record as being opposed to the project.

Board Discussion:

Kulick stated that he has given this project considerable thought, and recognizes that our elected officials (City Commission) have determined the land use appropriate for this location. He also recognizes that there may be a "disconnect" in the ordinance language that

has been in effect for over 20 years, which creates a practical difficulty in that it has not kept up with modern technology. In addition, he stated that the original location, which would be okay by ordinance, would place the tower in closer proximity to the Girl Scout camp. The second location would involve cutting down additional trees. The current proposed location makes more sense, with less impact on the Girl Scout Camp and park activities. Mr. Kulick stated that taking all this into account, he would support the request.

Curtiss commented that this location is next to Union Township, where there are buildings as tall as the tower. He stated that if the City doesn't approve the request, Union Township probably will. If the City approves the request, it gives us some control of what it and the surrounding landscaping looks like, whereas we would lose any such control if it is placed next door on Township land.

White stated that it is worth noting that this will not open up floodgates for all parks, and that this is a unique location. He stated he would like to ease any public fears that towers will be springing up all over. He also stated that this will be a good revenue source for the city.

Motion by Ellertson and Supported by Kulick to grant the setback request for 52 feet on the west and 85 feet on the north as requested by the applicant, noting the changes in technology and the effort to minimize the impact on future uses of the park.

Kulick made a friendly amendment to the motion, asking that the approval be contingent on the following:

1. Use of strobe lights be prohibited.
2. As part of the approval, the applicant will be required to add additional plantings to include two rows of trees at least six feet tall; types and spacing to be determined by the Planning Commission and Parks Department.

Motion by Ellertson and supported by Kulick to accept friendly amendment to the motion. Motion approved unanimously.

Motion by Ellertson and supported by Kulick to grant the setback variance as requested based on the changes in technology, and the effort to minimize the impact on park activities, with the stipulation that strobe lights be prohibited and applicant is to include additional plantings to include two rows of trees at least six feet in height along the north and west property lines, species and spacing to be determined by the Director of Parks and Recreation and the Planning Commission. *(These trees are in addition to those required by the PC that will be installed around the fenced-in compound)*

Roll Call Vote: Ayes: Kulick, Ellertson, White, Benison, Olivieri, Curtiss. Nays: 0. Motion carried unanimously.

Case 07-2009, 210 S. Mission.

Kench introduced Case 07-2009, stating this was a request for a front setback for a small addition on the former Isabella Community Credit Union building for the purposes of a

drive-through establishment. Ordinance requires 75 feet for drive through food establishments, with a 50' setback requirement for other uses. The existing building has a setback of 43.2 feet. Kench indicated surrounding properties on the north, south and east are zoned C-3, with the west side being a combination of C-1 and OS-1. Kench shared the site plan submitted by the applicant, stating this site is somewhat unique in that it fronts on three streets and a public alley. The site is designed to allow the approach to the service window at the rear of the site, with stacking areas on the side and rear of the property. The proposed addition would be constructed at the existing setback line. Kench further shared pictures of the building from various angles and explained that the addition would have a brick façade, arched windows, etc. to fit in with the existing building. Kench added that the project is in line with the Mission Revision guidelines and goals that the Planning Commission has been working on and that were recently adopted by the City Commission.

Tim Lapham, Lapham Associates and Dave Lapham, part owner of the site, addressed the Board as applicants for the case.

Mr. Tim Lapham stated that they would like to make the site more pedestrian friendly and increase pedestrian traffic. The proposed addition will include a walk-up window and patio area. Biggby Coffee, who currently occupies the northern part of the building, also has a patio area. The new space will be designed to attract a compatible tenant conducive to pedestrian traffic. Mr. Lapham stated that Biggby Coffee needed more than ½ of the existing space to locate in this building. The proposed addition is needed to make the existing space usable for a future tenant. The site had a drive through for the bank. Biggby Coffee was approved to continue the use of the drive-through for their establishment.

Mr. Dave Lapham added that this is the best use for the property and the use is basically not changing as the previous tenant had a 24-hour drive through ATM. He further stated that the project fits in with the long term goal for Mission Street and increasing pedestrian traffic.

Kulick asked for clarification on the location of the proposed patio. Tim Lapham indicated it would be just south of the proposed addition and east of the tree that is located there. The patio area next to Biggby Coffee is located on the north side of the building between the building and the handicap parking area.

Benison asked if the addition would adversely affect traffic flow on the site.

Mr. Lapham stated they felt it would actually make it easier for cars to come around the building as the SE corner will be angled to allow for better visibility and traffic flow.

Mr. Lapham stated that there are currently three drive-through bays on the site. The east bay is being used by Biggby Coffee. The middle bay will be used for the future tenant, with the west bay used as an escape route.

Benison asked whether the bay areas were being modified. Mr. Lapham stated they would remain essentially the same, with some improvements to “spruce it up”.

Benison asked if there would be any additional parking. Mr. Lapham stated they are not proposing additional parking – the parking along the alley will more than likely be used for employee parking.

Chairman Curtiss opened the public hearing. There being no one who wished to speak, the public hearing was closed.

Kench indicated the only correspondence received was from the Fire Department who had no concerns with the proposed project.

Board Discussion:

Kulick spoke regarding the pictures of the building shown in Kench's presentation and compared the existing north side of the building to the south side and stated that with the addition of the brick on the proposed addition, it would be a huge improvement in the façade and feels this would be an asset to the community. He further stated that the existing building has a setback less than ordinance requires, partly due to MDOT reducing the setback when Mission Street was widened, which could be considered a hardship. Kulick also stated there may be a "disconnect" with current ordinance language and the new Mission Street Plan that allows for buildings to be placed closer. Kulick expressed some concern with an increase in litter generated from pedestrian traffic and suggested that if the request is approved that the Board may want to require the installation of trash receptacles on the corners of the property. Overall, Kulick stated he feels this is a good development and in line with what we are looking for on Mission Street.

Benison reiterated approval of the project being consistent with the Mission Street plan.

Curtiss asked for clarification on whether the addition would be all brick façade. Kench stated it would be.

Motion by Kulick and supported by White to grant the variance as requested subject to the installation of four additional trash receptacles, one near each corner of the property. Approval is based on the hardship created by the State of Michigan when they widened Mission Street and also taking into consideration that the 75 ft. required by ordinance is to allow for vehicle stacking and the applicant has more than 75' to Michigan Street to allow for stacking.

Roll Call Vote: Ayes: Benison, Curtiss, Ellertson, Kulick, Olivieri, White. Nays: 0. Motion passed unanimously.

Other Business

Kench stated there has been some discussion on a couple of projects that may be coming before the Board in September.

Kulick asked if correspondence could be sent to the Planning Commission asking them to look at the ordinance language as it applies to cell towers, based on new technology. In addition to look at the language for the setbacks for drive-through facilities in light of the Mission Street Plan to see if there are possible disconnects there.

VII. Adjournment

Motion by Kulick and supported by Benison to adjourn. Motion carried unanimously.
Meeting adjourned at 8:07 p.m.