

ZONING BOARD OF ADJUSTMENTS

DATE: December 19th, 2019

The Zoning Board of Adjustment met at a scheduled meeting on Thursday, December 19th, 2019 at 2:30 p.m. in the Commission Chambers at City Hall, Shawnee, Oklahoma, Pottawatomie County, pursuant to notice duly posted as prescribed by law. Rebecca Blaine, Planning Director for the City of Shawnee, presented the staff reports. Staff reports are available upon request.

AGENDA ITEM NO. 1:

Roll Call

Upon roll call the following members were present: Crystal Richardson, Holly Gordon, and Tim Burg.

A quorum was declared present.

NOTE: Mat Thomas and Mark Cannon were absent.

AGENDA ITEM NO. 2:

Approval of the November 21st, 2019 Zoning Board of Adjustment Meeting Minutes

Commissioner Burg made a motion to approve the minutes; seconded by Commissioner Richardson.

Motion carried:

AYE: Richardson, Gordon, Burg

NAY: None

ABSTAIN: None

AGENDA ITEM NO. 3:

Case #Z03-19 – Public hearing and consideration of approval of a variance request for the setbacks and height of a cell tower for a property located at 1310 North Kickapoo Avenue

Applicant: Troy Williams

Planning Director Rebecca Blaine presented staff report. She stated AT&T has applied for this variance to enhance cellular data, broadband, Wi-Fi, and FirstNet coverage in this area. She briefly described the characteristics of the property. She stated the Zoning Code requires the setbacks for cell towers to be 80% of the height of the cell tower in question. She stated the cell tower would not interfere with any permanent structures within its radius. She stated Oklahoma Natural Gas and Locke Supply Co. have submitted letter of support for this application. She noted the Zoning Code is old and does not reference self-collapsing cell towers in its regulations. She briefly summarized the rest of the application.

Chairwoman Gordon praised the design of the packet submitted by staff.

Director Blaine opened the public portion of the meeting and asked anyone who wished to speak to state their name and sign in. Troy Williams, the applicant, came forward. He stated they will be leasing the entire tract of land, and they can therefore clean up the entire tract of land. Commissioner Richardson asked about the self-collapsing aspect of the tower. Mr. Williams stated it is a sectional tower with three sections. He stated that it designed not to fall over onto other buildings.

Commissioner Burg asked if this cell tower would correct some of the issues regarding gaps in cell service. Mr. Williams stated it would. He discussed future plans for additional cell towers in Shawnee.

Chris Boyd came forward to speak as a representative of the Sac & Fox Nation. He stated they are not necessarily against the cell tower. He requested more time to respond to the public noticing in the future. He stated the Sac & Fox Nation has requested if any inadvertent discovery of human remains or any kind of cultural resources that may have belonged to the Sac & Fox Nation that activates be halted until they have had an opportunity to evaluate the cultural significance of what is discovered.

Jeremy Fincher of the Sac & Fox Nation came forward. He requested a minimum of 30 days-notice for noticing.

Mr. Williams stated they would do an environmental analysis on the property. If something is found, they will stop and notify everyone. Mr. Fincher asked if the packet was publicly available. Director Blaine stated it is. City Attorney Joseph Vorndran stated legally they have a prescribed time period for noticing. He stated that in a government-to-government relationship, the City can give them notice, but the formal notice will follow the protocol prescribed by law. Chairwoman Gordon thanked Mr. Fincher and Mr. Boyd for coming forward.

No one else came forward and Chairwoman Gordon asked for a motion. Commissioner Burg made a motion to grant the variance as requested; seconded by Commissioner Richardson.

Motion passed:

AYE: Richardson, Gordon, Burg

NAY: None

ABSTAIN: None

AGENDA ITEM NO. 4:

Case #Z04-19 – Public hearing and consideration of approval of a variance request for the lot width of 6 proposed tracts of land for residential use for a property located 264 feet south of the southwest corner of Patterson Road and Lake Road

Applicant: Mason Schwartz

City Attorney Joseph Vorndran presented staff report. He noted the drawing that has been provided to the Board. He stated that the Interim Planning Director prior to Director Blaine made some representations that were relied upon by the developer and subsequently by individuals who purchased some of these tracts of land. He stated there are violations of current zoning, but that these individuals were reasonable to rely on the representations made by the Interim Planning Director at the time. He clarified this variance would not set a precedent for future developments in the City.

Chairwoman Gordon open the public portion of the meeting. Mason Schwartz, the applicant, came forward. He summarized the characteristics of the tracts of land being created and provided some additional background on the history of the proposed development. He stated the tracts cannot be redone since some have already been sold.

Jesus Garcia came forward with concerns. He asked why some of the tracts were designed the way they were, expressing concern for specifically Tract 6. He expressed concern about how close the frontages of the tracts are to each other. He stated the City has not seemed to take into consideration the community in this area. He stated there is little to no law enforcement presence out there, and that the roads are in poor condition.

Aaron Wade came forward with concerns about law enforcement presence and the conditions of the roads. He stated the City needs to do a better job on those aspects.

Mr. Schwartz came forward again to address the concerns of Mr. Garcia and Mr. Wade. He stated the area of the tracts meet the standards of the Zoning Code. He stated they can grant a cross-access agreement to make some of the rear tracts use one access point. Commissioner Burg asked Mr. Schwartz who designed the tracts. Mr. Schwartz stated his client sat down with the previous City employee who was involved in this project and that they did it together. He stated the reason the tracts came out the way they did was because they wanted all the tracts have at least 330' of the width in the rear portions of the tracts.

No one else came forward and Chairwoman Gordon closed the public portion of the meeting. Mr. Vorndran reiterated that there is an unnecessary hardship. He also stated the population density is permissible in the Rural Agricultural District. He noted that the comments on roads and law enforcement is outside the scope of this public hearing, and that those elements could not be part of the analysis leading to the staff recommendation of approval. He stated the conditions are peculiar to the property and that the variance would cause substantial detriment to the public good or impair the purposes and intent of the Zoning Code and Comprehensive Plan. He stated the concerns of Mr. Garcia and Mr. Wade are more appropriate to be expressed to the City Commission. He stated the variance would be the minimum necessary to alleviate the hardship.

Chairwoman Gordon asked for a motion. Commissioner Burg motioned to grant the variance as requested; seconded by Commissioner Richardson.

Motion passed:

AYE: Richardson, Gordon, Burg

NAY: None

ABSTAIN: None

AGENDA ITEM NO. 5:

Planning Director's Report

Planning Director Rebecca Blaine did not have a report.

AGENDA ITEM NO. 6:

Commissioners Comments and/or New Business

Commissioner Burg asked Director Blaine to pass along to the proper authorities the concerns Jesus Garcia and Aaron Wade expressed regarding the lack of law enforcement presence and the conditions of the roads in the Shawnee Twin Lakes area.

Chairwoman Gordon expressed agreement with Commission Burg's comment.

AGENDA ITEM NO. 7:

Adjournment

Meeting was adjourned.


Chairwoman/Vice-Chairman

Joseph Barker

Zoning Board of Adjustment Secretary