

**CITY OF OKOBOJI PLANNING AND ZONING MINUTES
FOR THE MEETING HELD ON MONDAY, JULY 2ND, 2018 AT 5:30 PM
OKOBOJI CITY HALL**

The Planning and Zoning Board for the City of Okoboji met on the above date at 5:30 PM at the City of Okoboji City Hall. Board members present were Les Marousek, Barbara Mendenhall, Jane Shuttleworth, Hank Grant, and Perry Pearson. Others present were Michael Meyers, City Administrator, Scott Buell, Jeff Rose, and Allen Smith.

Perry Pearson chaired the meeting and called the meeting to order.

Chairman Pearson moved the second agenda item relating to a conditional use permit for a cellular tower to the front of the agenda.

Chairman Pearson read aloud the application for a conditional use permit for the use of a communications device. Verizon Wireless would like to build a 100' monopole communications tower together with equipment cabinets and generator at the base of the tower, all surrounded by a 6' privacy fence, with ingress and egress coming from Lake Shore Drive on Lot 1 and 2 of Block A of Subdivision Blocks I, L, J, and K of Beck's Replat.

Mr. Scott Buell, representing Verizon Wireless, spoke on behalf of the project. Buell advised that the drawings show it disguised as an elm tree, but mentioned that it's a bit tall to be an elm tree and the Board may want to ignore that design. Buell advised that there is a definite need for a cellular tower in this exact area especially given the increase of traffic during the summer tourism season. This tower will help with call and data speeds.

Mr. Allen Smith (owner of Smith's RV) advised that he has spoken to a few residents in the vicinity and that they are in favor of increased speeds.

Commissioner Barbara Mendenhall asked about the setback from the north property line. Buell advised approximately 50-60 feet and acknowledged the need for a variance. Buell advised that the tower is designed to collapse upon itself and not fall over.

Commissioner Jane Shuttleworth asked where the mobile homes were located in proximity to the proposed cellular tower. Smith advised that they are likely 50 – 60 feet from the location.

Commissioner Les Marousek commented on how far away the structures to the north of the proposed cellular tower are.

Smith asked Buell that if the fall zone is even less than 50' due to the way the tower is engineered. Smith recalled a story where a tornado came through a community and the cell tower was left standing. Buell commented that he has only very rarely heard of a tower falling.

Commissioner Mendenhall asked about the FAA and the desire of lighting. Buell stated that the need for lighting was likely to be pretty low but they are going through a study to determine.

Chairman Pearson asked about the study. Meyers commented that the tower is within the overlay district for the Spirit Lake Municipal Airport and that he and the City Zoning Administrator with the City of Spirit Lake have looked at the plans and agree that the tower is within compliance of the airport's zoning overlay. Buell commented that generally the FAA defers a lot to the local airfield.

Commissioner Mendenhall inquired about a timeline. Buell suggested that next spring may be a target timeframe but hoped that it could potentially happen sooner.

Commissioner Shuttleworth asked about notice to the neighbors. Meyers explained that notice is sent out prior to a Board of Adjustment meeting for both the Conditional Use as well as the need for a variance. Commissioner Marousek advised that since there was no need for a rezoning it is different than prior attempts.

Commissioner Marousek commented that he appreciates that this is located in commercially zoned property.

Chairman Pearson asked about additional safety issues relating to the tower.

Chairman Pearson asked about the Elm tree design. Buell commented that was perhaps not the best idea. Smith agreed. Commissioner Marousek commented that cell towers blend in pretty well and there was agreement that generally the Elm tree design perhaps was not the best idea.

Commissioner Grant acknowledged that he was okay with this proposal. Commissioner Shuttleworth commented that she felt this was the best alternative compared to what has previously been presented. Commissioner Mendenhall agreed.

Commissioner Marousek made a motion to recommend to the Board of Adjustment that the conditional use permit for Allen Smith, on behalf of Craig Smith, and Bruce Smith for a communications tower be approved. The motion was seconded by Commissioner Grant. The following Commissioners voted "YEA": Marousek, Grant, Mendenhall, Shuttleworth, and Pearson. The following Commissioners voted "NAY": None. Motion passed 5-0.

Chairman Pearson reviewed and read aloud an application for lakeshore landscaping for Mary and Gerald Sweetman located at 5311 Lakeshore Drive.

Mr. Jeff Rose, an Engineer representing the property owner, spoke to the project.

Commissioner Mendenhall inquired about the drainage swale on the map and was unsure on the pipe. Rose explained in detail his plans for the drainage swale. Rose commented that there would

be tile at a certain location and a drainage ditch at another location. Rose explained the whole goal was to collect the surface water prior to it going up and over the bank.

Commissioner Mendenhall asked about the existing boulder. Rose explained that the most would remain but that there were locations where they would need to remove and replace as well as add more.

Commissioner Mendenhall asked about the rock being used. Rose commented it would be native field stone and boulders.

Commissioner Marousek asked Commissioner Shuttleworth about the plantings and what her comments were on that. Meyers advised the Commission on the drawing submitted by the landscaper. Shuttleworth commented that they may want to consider some shorter grasses as Blue Stem is a fairly tall grass.

Commissioner Grant asked about the construction schedule. Meyers advised that their plan was to start after Labor Day and that it's about a two-month job and that they were proposing to get this done before winter hits. Chairman Pearson commented that due to how late in the season it was that they should prepare for utilizing erosion control mats. Rose agreed and mentioned that he would discuss with the General Contractor on the project.

Commissioner Shuttleworth commented that they may want to consider multi-seasonable flowers so that they bloom at different times versus all at the same time.

Commissioner Marousek commented that it looks like a nice project and necessary. Rose commented that they attempted to best match their neighbors as they could.

Chairman Pearson asked about the stairs. Rose commented that they are stone produce not concrete.

Commissioner Mendenhall mentioned she did not believe that the erosion was very noticeable. Chairman Pearson agreed but acknowledged he did not know what it looked like several years prior. Commissioner Mendenhall thought this was more of an attempt to revise the walkway.

Commissioner Shuttleworth asked if there was any necessity for coring as part of this project due to all of the wet weather. Rose commented that they could.

Chairman Pearson wondered if the high water continues or increases and how that would affect the project. Rose said they would hold off if the water remains too high. Rose commented that they would notify the City should that decision be made.

Chairman Pearson advised for a perforated tile underneath the drainage swale as well as good silt fencing, mulching, and matting. Rose agreed.

Commissioner Shuttleworth made a motion to recommend to the Board of Adjustment that the conditional use permit for lakeshore landscaping for Gerald and Mary Sweetman at 5311 Lakeshore Drive be approved with the following conditions: Perforated tile within the drainage swale to catch runoff water, adequate mulching of solid after seeding to ensure stability, good silt fence application, and keeping an eye on the high waters to advise if a modified schedule is necessary. The motion was seconded by Commissioner Mendenhall. The following Commissioners voted "YEA": Marousek, Grant, Mendenhall, Shuttleworth, and Pearson. The following Commissioners voted "NAY": None. Motion passed 5-0.

The Commission discussed the need for the City to have a time limit on City issued Zoning Permits. Currently the City has no expiration on a Zoning Permit.

There was discussion relating to how long is a reasonable amount of time. Commissioner Grant advised that contractors he has spoken with advised that 18 months is long enough giving them two full summers to complete the project. Meyers commented that due to how large some of the homes can be in Okoboji that fact needs to be taken into consideration and offered 24 months. Meyers commented that the Whitecap development has covenants that require homes be built within 12 months so that certainly 24 should be doable.

Commissioner Grant comments how contractors essentially bounce around from location to location without giving much priority to certain homes.

Meyers briefly commented that there are some serious frustrations from neighbors in the community who would like to see this happen.

The Commission discussed what a reapplication process looks like and what fees should be charged. The Commission discussed the doubling of the application fee for a renewal. Meyers commented that given the existing permit fees of some of the larger homes in town that doubling the fee may be a bit excessive. Meyers gave an example of a building permit costing \$15,000.00 (the City maximum for construction \$750,00 and above) would cost an additional \$30,000.00 to reapply. Meyers wondered if that was too much of a penalty.

Meyers advised that there was to be no vote on this but instead that he would take this information and craft a new policy that might fit. This would be an amendment to the Zoning Ordinance which would start with the Planning and Zoning Commission. Meyers advised that amending the fee schedule would be more so a job for the City Council but adding the "double" or whatever that multiplier language could be done within the Zoning Ordinance.

Chairman Pearson asked about possibly having a one-time extension available such as 90-days or 120-days prior to being asked to reapply.

Commissioner Mendenhall asked about previously permitted projects and if the City could do anything if this amendment passed. Meyers commented that he believed permits issued prior to

the passing of the ordinance likely would not necessarily be held to this standard but that he would confirm with Legal.

The Commission moved discussion to the expansion of legally non-conforming structures. Meyers advised that many property owners within the City are legally non-conforming but have submitted for zoning permit applications which are an expansion of a legally non-conforming structure but otherwise legally conforming with the new expansion or addition. Meyers commented that with most of these applications, all zoning regulations are being met and that applicants are not furthering non-conformity. Meyers advised the amount of time the process currently takes and the amount of meetings the Board of Adjustment is having to attend. Meyers commented that is a lot of pressure being put on a volunteer board.

Commissioner Mendenhall asked if you had a structure and tore it down leaving just the foundation if the applicant could rebuild. Meyers advised he wasn't 100% sure on the foundation piece but if you tore down a home you would have to build within the available building envelope. Meyers did give an example if you had an old home and wanted to put on a small addition you would have to go through the process of getting a variance.

Chairman Pearson asked if there could be a formula to help determine what needed to go through the process and what didn't. Meyers gave an example of what this could look like. Meyers advised that anything was on the table and that he would look into it.

Chairman Marousek commented that the City needs to be careful in letting up on the rules too much because people will take advantage of that.

Meyers commented that the Board of Adjustment would much appreciate some headway with this issue and said that he would continue to look into it with a stronger formulated idea as this issue is a bit grayer than the others.

Meyers then discussed the lakeshore landscaping ordinance. Meyers advised that the City has received complaints on it and the Board of Adjustment does not feel as though they need to see these applications if the Planning and Zoning Board approves. Meyers advocated for the process stopping with the Planning and Zoning Commission and trying to find a way to figure out how to do that.

Commissioner Mendenhall and Chairman Pearson discussed the current process. Chairman Pearson commented that because the City categorizes this as a conditional use permit that it must go the Board of Adjustment. The Board of Adjustment is the final authority on a conditional use permit.

Meyers agreed with this process and reiterated. Meyers confirmed that the City Council does not consider these permits.

Commissioner Shuttleworth commented that one of the main reasons this was a conditional use permit was because of the required notification.

Meyers commented that he believes that the notification is perhaps a bit too much. Meyers gave an example of a lakeshore landscaping application which had to notify dozens of property owners who are not located anywhere near to the project or the lakeshore and Meyers advised how that gave some individuals confusion.

Meyers also commented on the difficulty for property owners to do small jobs. Meyers wanted small jobs to be able to be approved by City Staff. Meyers gave examples of small jobs that would not necessarily qualify as a repair or a replacement and how they likely could have easily been administratively approved.

Meyers asked about trimming of brush from the lakeshore. Commissioner Mendenhall advised that individuals can trim brush but not uproot them. Commissioner Shuttleworth commented that the removal of plants really needs an analysis to be done.

Commissioner Shuttleworth commented on how a lot of this was determined based on the Department of Natural Resources preferences to protect the lakeshore.

Meyers commented that at least one letter has been written to the City about how complicated and expensive the process can be. Meyers gave an example of a massive lakeshore project that pulled out and Meyers wondered if the intent was met. Instead of a large project the applicant replaced the steps.

Meyers commented that he believes the intent to be spot on but would still like to look at the process.

Commissioner Mendenhall commented that the Commission should go through it piece by piece in September. Mendenhall commented that the lakeshore banks are fragile and the utmost care needs to be taken.

Commissioner Shuttleworth commented that the DNR is really desiring to know what is happening on the lakeshore banks and to be kept in the loop.

Meyers asked if this were just a Planning and Zoning Commission approval if that would be appropriate. The Commission generally agreed.

Commissioner Shuttleworth commented that notification part is important because the more eyes on the project you can get the better.

Meyers addressed that he did not believe that a Conditional Use Permit was the most appropriate way to categorize lakeshore landscaping as it was not an application for a use of the land. Meyers commented he felt that maybe this was confusing during the notification period.

Commissioner Grant made a motion to adjourn the meeting. The motion was seconded by Commissioner Marousek.

ADJOURNMENT

Michael Meyers
City Administrator
City of Okoboji