

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, May 12, 2015, at Westfield City Hall. Members present included Randell Graham, Martin Raines, Ron Rothrock, Bill Sanders and Dave Schmitz. Also present were Kevin Todd, Senior Planner; Amanda Rubadue, Associate Planner; and Brian Zaiger, City Attorney.

ELECTION OF OFFICERS

Sanders motioned to nominate Martin Raines as Chairperson and Rothrock seconded. Upon a call to vote by the Chair, the motion passed with a vote of 5-0.

Raines motioned to nominate Ron Rothrock as Vice-chairperson and Sanders seconded. Upon a call to vote by the Chair, the motion passed 5-0.

Sanders motioned to nominate Randell Graham as Pro-tempore and Rothrock seconded. Upon a call to vote by the Chair, the motion passed 5-0.

APPROVAL OF MINUTES

Sanders moved to approve the April 14, 2015, minutes.

Rothrock seconded, and the motion passed by 5-0 vote.

Todd reviewed the Public Hearing Rules and Procedures.

ITEMS OF BUSINESS

1503-VU-02
(CONTINUED)

17777 Commerce Drive

Edward Tomich by Badger Engineering, LLC

The petitioner is requesting a modification of a condition of approval for a previously granted Variance of Use to allow an indoor shooting range and related retail sales in the EI: Enclosed Industrial District (1304-VU-01) (Chapter 13: Use Table).

**1505-VU-05 &
1505-VS-07**
(PUBLIC HEARING)

SEC of 146th Street and Oak Ridge Road

AT&T Mobility by Bingham Greenebaum Doll LLP

The petitioner is requesting a Variance of Use to allow a new Wireless Communication Service Facility and Variance of Development Standard to reduce the Minimum Building Setback Lines in the SF2: Single-Family Low Density District (Chapter 13: Use Table & Article 4.5E)).

Todd presented an overview of the Variance of Use and Variance of Development Standard request combined.

Matt Price, Bingham Greenebaum Doll, on behalf of the Petitioner, gave a brief presentation.

Public Hearing opened at 7:08 pm

Doug Holtz, 135 Senator Way; Opposed; Representing the Village Farms HOA stated that they understand the need for the tower but are concerned with its proximity to residential areas. He stated that the notice was sent on May 1, 2015 and that it was received by the HOA on May 4, 2015. He stated that upon receiving notice, the HOA sent out the project information to the neighborhood residence, and within one day, received 10 negative comments and 3 positive comments. He reported that the neighbor's concerns are as follows: the visibility of the tower from home lots in Village Farms; the tower detracting from the aesthetic quality of the area; and the impact the tower would have on property values. He closed by requesting the Board to either deny the request, request the petitioner to seek an alternative location, or lower the height of the tower to 60' – 80'.

Graham asked what percentage of the residence will actually be able to see the tower from their lot.

Holtz responded that 30% – 45% of the residents between U.S. 31 and Spring Mill Road would be able to see it.

Dan Traub, 534 Worth Court; Opposed; Representing the Village Farms HOA expressed opposition to the tower, stating that the impact from the tower is not keeping with the neighborhood and City standards. He asked the Board to keep in mind that this is a not a public service but a for-profit entity. He said that the benefit is limited but the impact affects everyone.

Jim Grose, 15872 Viking Lair Road; Opposed; Gave a hard copy of his presentation to the Board to review.

Lisa Grimes, 636 North Court; Opposed; Requested that AT&T look for a more industrial location like the ones Price referenced in his presentation, not their neighborhood.

Cynthia Massie, 14524 Saddleback Drive; Opposed; Expressed concerns about noise, radio waves and health effects. She said that when there are no leaves on the trees, the tower will be able to be seen. She also expressed concern with drainage, citing an existing problems in the area.

Deborah Myers, 14510 Oakridge Road; Opposed; Gave the Board a copy of her presentation and a copy of a petition signed by other neighbors that are opposed to the tower. Stated that she would have liked more notice.

Todd Elliott, 14504 Saddleback Drive; Opposed; Would like to have been notified sooner.

Mindy McDonald, 14566 Saddleback Drive; Opposed; Expressed drainage concerns and health risk concerns for children using the adjacent athletic fields under a cell tower.

Joy Ressler, 14851 Oak Ridge Road; Opposed; Expressed concern that if this request is approved for AT&T, then they will need to also approve a future tower for Verizon across the street.

Kurt Schepers, 14827 Victory Court; Opposed; Stated that he did not know about the tower until the morning of the meeting. He wanted to know why they do not put this tower up by Grand Park so that Grand Park can receive the income from the tower.

Mary Ann Ayers, 20 Bennett Road; Opposed; Expressed concern regarding potential health issues with the tower.

Brian Chapman, 14944 Adios Pass; Support; Expressed surprise regarding how little the new tower impacted coverage in the area.

Ray Martin, 15215 Count Fleet; Stated that he has questions that he would like to address with the petitioner before the Board takes action, and asked that the Board postpone a decision until the next BZA meeting.

Public Hearing closed at 8:16 pm

Zaiger reminded the Board that federal law does not allow them to make an adverse decision based on perceived health issues associated with wireless communication towers.

Price responded. He stated that the tower is a utility and is licensed and regulated by the FCC and it is federal law that provides for the equipping on a national basis with wireless infrastructure for the national defense, commerce and for public safety. He added that this tower will close a gap in coverage in a heavily populated area, which is driving the need for this tower. He clarified that the tower is not designed to be hidden, but rather that its stealth design locates all of the cables and antenna equipment inside of the pole, rather than outside of the pole. He added that the tower will have room for co-location, reducing the need for additional towers in the area. Regarding property values, he stated that studies have shown that property values are not negatively impacted by the proximity of a cell tower.

Graham motioned to approve Petition 1505-VU-05 with Staff Conditions:

1. That the installed tower be substantially similar to what is depicted in Exhibit 4; and
2. That any building constructed on the Property be completely screened from view on all sides by evergreen trees that are a minimum of eight (8) feet in height at installation and are spaced in a manner that creates a complete visual screen.

Rothrock seconded, and the motion passed 3-2 (Raines, Sanders).

Raines moved to adopt the Staff's recommended findings of facts.

Rothrock seconded, and the motion passed 5-0.

Graham motioned to approve Petition 1505-VS-07 with Staff Conditions:

1. That the installed tower be substantially similar to what is depicted in Exhibit 4; and
2. That any building constructed on the Property be completely screened from view on all sides by evergreen trees that are a minimum of eight (8) feet in height at installation and are spaced in a manner that creates a complete visual screen.

Rothrock seconded, and the motion passed 3-2 (Raines, Sanders).

Graham moved to adopt the Staff's recommended findings of facts.

Rothrock seconded, and the motion passed 5-0.

REPORTS/COMMENTS

Plan Commission Liaison.

Graham provided a report.

Economic and Community Development Department.

Todd introduced a new Associate Planner Amanda Rubadue.

Raines introduced new BZA Board Member Dave Schmitz.

Sanders motioned to adjourn the meeting.

Rothrock seconded, and the motion passed.

The meeting adjourned at 8:37 p.m.

Vice Chairperson
Martin Raines

Secretary
Matthew Skelton, Director