

Minutes of the February 12, 2008
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Foster Davenport, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, February 12, 2008, in Room 203 of the Marshall County Building. Present were: Commission Members Foster Davenport, Don Ecker, Deb Griewank, Dennis Thornton and Bob Flora, Plan Director Ralph Booker, Secretary Lori Lowry, and interested parties.

The first item of business was the review of the minutes from the January 8, 2008, meeting. **Mr. Thornton moved and Mrs. Griewank seconded the motion to approve the minutes as written. The motion passed by acclamation.**

The second item of business was 08-BZA-02 US Cellular (David & Annette Wojcik)- The applicant (US Cellular) wants to place a 250 foot wireless communication facility on a 35 acre parcel owned by David & Annette Wojcik. Mr. Ray Simmons and Mr. Ryan Carrens were present to represent US Cellular and their request. Mr. Booker gave the details and presented the findings of fact. According to the new zoning ordinance this is a Special Use in an A-1 District. It also must conform to all the regulations in Chapter 6 Development Standards, Section 210 (*Telecommunication Facility Standards.*) They have submitted the proper paperwork. Analyzing the requirements, I have found there is an existing 165' tower within two miles of this proposed tower which is located at Ancilla Domini. New towers cannot be approved unless the applicant can prove

the existing tower cannot accommodate the points in the co-locations requirements.

Mr. Simmons stated that US Cellular is a national wireless communication company that has a little over 5.8 million customer in 26 states. The process now in northern Indiana and southern Michigan is to enhance network quality. The particular tower as registered with the FCC and is located at Ancilla Domini is 160' tall and is designed as a low load tower. That means it is not designed and built with structural capacity that US Cellular's tower is. US Cellular is proposing a 250' tower. Their number one goal is to find a structural facility that is as high as they need to accommodate their antennas. To use the existing tower at 160' their antennas would be installed at 147-147' and given the topography their would be significant gaps in coverage and would require additional locations elsewhere.

While reviewing the Marshall County Zoning Ordinance requirements they contend that they meet the following requirements: They plan on using natural buffers (trees and shrubbery), they will not interfere with the site lines and corridors, and are not aware of any public parks.

The applicant presented the plans and reviewed each page in detail. The setbacks on this tower will be from the center of the tower which is approximately 410' off of Union Rd., approximately 360' from the north property line, approximately 720' from the west property line and approximately 960' feet from the south property line. The plan is to put a gravel drive and no trees will be cut down. Based on the following location it obviously meets the setbacks within the ordinance and they also feel that it is compatible with the county plan based on its location.

The tower is a 250' tower with a 8' lightening rod which will make the total height 258'. This tower is a self supporting structure with no guide wires. There will be room on this tower for co-locations. The lighting will be minimal with 2 side lights half way up and only come on at night and a beacon on top. There will be a chain link fence that will keep out unauthorized persons and will be 7' in height. There will also be a shelter inside the fenced area to house their equipment. The site will be unmanned, but there will be technicians every four

weeks to look at the site. Due to increased growth in this area, there is a possibility that additional antennas will be added making it 12 antennas.

The antennas emit approximately 50 watts of energy per channel which is a tenth of the level that the FCC permits. These particular antennas are under the level that the FCC says are permissible levels of energy radiation. When wireless antennas are installed above the ground they are aimed at the horizon. Most if not all of the energy has defused and disbursed before it reaches ground level. There is no risk for the surrounding people as far as exposure. They feel that this particular facility will serve the public convenience and welfare. The approval of this petition won't endanger the health, safety, morals or the general welfare of the community. The way it is designed, located and materials that are used won't impact the use, enjoyment or value of the adjacent properties. The access points as shown will minimize any traffic congestion.

Mr. Thornton asked if the antennas will be at the same height as the tower. The applicant said yes.

Mr. Booker presented a copy of the current lease for the tower at Ancilla to the board. Mr. Booker asked the applicant if it is possible to raise the height of the existing tower to accommodate their equipment. The applicant stated that based on the size of the base and the current height they believe the tower would totally have to be replaced and feel that it would be more costly to do this rather than build in the site as requested.

Mr. Flora moved and Mrs. Griewank seconded the motion to open for public hearing. The motion passed by acclamation.

- Mr. Leuth – Is concerned about the health risks, property values, and also stated that there is a natural wildlife sanctuary across the road. Mr. Leuth is against this request wants somebody to prove that this isn't going to affect their health.
- Mrs. Leuth – She talked with a realtor and they confirmed that people are reluctant to purchase a property that has a tower on or near it. Mrs. Leuth is against the request.

- Dan Leuth – Is concerned with the safety of his kids as he has heard it causes cell growth in certain types of cancer. Mr. Leuth is against the request.
- Dean Sarber – Wants a clarification of the height of the tower. Mr. Stone stated that it is 195' tall. He also wanted to see the elevation of the site.
- John Stone – This tower is 195' tall and is extendable. Mr. Stone has talked with a commissioner which confirmed that the county is willing to look for tenants on this tower. According to the standards on the zoning ordinance it says, "The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building, as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost." Nothing has been brought in by an engineer that is stamped and certified documentation and also doesn't include tower prints or foundation prints. Also, he would like to see proof that this proposed tower will be more economical to build than fixing the current tower to meet their standards. Mr. Stone feels that that this board should adhere to the ordinance.
- Richard & Tricia Sommers – Sent a letter and are against this project. They purchased this property because of the rural natural setting. Some of the questions they have are: If this tower is approved, will it open the door for other towers? Will any efforts be made to camouflage it? Will this have an impact on surrounding property values? If there is already a tower within 2 miles shouldn't they be required to use that tower?

Mr. Ecker moved and Mr. Flora seconded the motion to close the public hearing. The motion passed by acclamation.

The applicant read the following from a document off the FCC website:

Measurements made near typical cellular and PCS installations, especially those with tower mounted antennas, have shown that ground level power densities are thousands of times less than the FCC's limits for safe exposure. In fact, in order to be exposed to levels at or near the FCC limits for cellular or PCS frequencies an individual would essentially have to remain in the main transmitting beam(at the height of the antenna) and within a few feet from the antenna. This makes it extremely unlikely that a

member of the general public could be exposed to RF levels in excess of the guidelines due to cellular or PCS base station transmitters.

As far as channels per antenna there is one channel for all antennas. They use technology which allows multiple signals.

Mr. Davenport asked if there is radiation testing. The applicant stated that they don't because they use non-ionizing which only heats the body tissue compared to ionizing which is like x-rays. To heat the body tissue you would have to be at the threshold that the FCC says is dangerous and at that level it would only warm the tissue a very little. They are well below their limits and see no harm. Their tower only uses 50 watts for a cell site compared to a radio station using approximately 10,000 to a million watts. They are well below other users.

The applicant stated they have two sets of drawings, a zoning set and a construction set. A construction set has not been completed as they usually wait until after the public hearing as some things get changed. After zoning is approved a construction set that is stamped will be provided prior to permitting.

The applicant asked Mr. Booker if the drawings of the Ancilla tower show a height. Mr. Booker stated that the tower was approved for 195' along with the drawing showing the same height.

Mr. Davenport would like to see that this matter be tabled to allow the applicant time to get documentation as to why the current tower cannot be extended.

Mr. Thornton stated the new zoning ordinance is very specific and expects it to be followed.

Mr. Thornton moves to table this request to allow the applicant time to fulfill the requirements of the zoning ordinance, seconded by Mr. Flora. Motion carried by acclamation.

Mr. Flora asked the applicant what the estimated cost of their tower is. The applicant stated that it is approximately \$200,000.

Mr. Simmons committed that they will do a structural analysis with the permission of the County Commissioners and Ancilla Domini. A projected cost will also be figured.

Violations:

Jim & Julie Bellerose – They are a couple living in a trailer at Yogi Bear permanently. Yogi Bear is trying to evict them. They have sent certified letters and the board president has met with them and they are thinking about turning off the electricity. The trailer is inadequate and doesn't meet the Health Departments standards. Mr. Davenport moved that Mr. Lukenbill notify the Bellerose's that they are in violation of the Marshall County Ordinance, seconded by Mr. Flora. Motion carried.

2007 Annual Report:

Mr. Booker presented the 2007 Annual Report for the review of the members. There were 418 permits issued, an improvement over 2006 numbers. Mr. Booker commented that the year 2007 was a historic time. On November 5, 2007, the new Marshall County Zoning Ordinances became Effective. This was the first major change since 1974, a period of 34 years!

There being no further business, a motion was made to adjourn and seconded. The motion was passed by a voice vote.

Respectfully submitted,

Deb Griewank
Secretary