

**MINUTES OF THE ZONING BOARD OF APPEALS
MEETING HELD ON MAY 16, 2024**

The meeting was called to order by Chairman Ken Hartman at 7:30 PM

Roll call was taken: **Present: Poettker, Loerch, Boothman, Spielman, Powell, Gibbs, and Hartman.**

Chairman Hartman asked if there were any additions or corrections to the minutes of the March 21, 2024 meeting. There were none.

A motion was made by Poettker and seconded by Spielman to approve the minutes of March 21, 2024, as presented. Motion carried.

The Chairman asked if there were any petitions by citizens on non-agenda items. There were none.

The Chairman also asked if there were any corrections or deletions to the agenda. There were none.

PETITIONS:

Z-24-05-01 Review and Comment on a proposed Special Use Permit to allow a Communication Tower located at 961 North Market Street, Parcel No. 07-13-300-005-000 in the I-1 Zoning District, as permitted by 40-2-3(B), as requested by petitioner SBA Towers X LLC.

The Zoning Administrator commented that the public notice for this petition was published in the May 01, 2024 edition of the Waterloo Republic-Times. The majority of postal notification receipts have been received. Those residents who did not respond to the postal notification were personally notified.

Mr. Tony Dawson, KCI Technologies, Inc., was present to speak on behalf of this petition filed by SBA Communication, the tower owner and petitioner. SBA would be building the site for Verizon Wireless, however, the tower would be designed to handle additional service providers. Verizon Wireless would be just a lessee on the tower. Mr. Dawson explained the selection of this particular parcel, which was based on the need for coverage with minimal obtrusive. The company also prefers to build on commercial property. The power substation was an added plus as it is typically easier to get a tower on the same site as a substation. This parcel meets the setback requirements, and the zoning requirements, and although it is behind a Walmart, it is far from the general public. The tower will be a 150-foot monopole structure, which will be enclosed in a fenced compound area with landscaping. SBA would be responsible for maintaining the tower and the compound. In the event of a tornado or similar situation, the tower is constructed to collapse upon itself at a distance of 50 feet from the top, and since the enclosed compound area is estimated to be 0.8 acres (34,848 sq. ft.), the tower would then fall within its fenced-in boundaries. The base of the monopole will be roughly 5 to 6 feet in diameter, and the carriers will be about 10 feet apart from each other.

There was a lot of discussion about the location of the tower. Zoning Board Members questioned why the tower could not be relocated further to the north, closer either to the substation or on the other side of it, to increase the setback and avoid encroachment on neighboring properties.

Mr. Dawson responded that repositioning the tower was not an option due to overhead power lines, swales, the topography of the land, the detention basin, underground utilities, and easements. Positioning the tower in front of Walmart is also not desirable as one of the goals is to remain as conspicuous as possible. Additionally, Mr. Dawson addressed questions concerning telecommunications coverage and 911 call capacity, saying it would improve with the new tower. The tower would have the ability to handle four (4) carriers.

Speaking on behalf of the Shirley L.E. Lohkamp Trust, Ms. Debbie Heimburger expressed her opposition to the petition. The trust is the owner of the adjacent property. Ms. Heimburger discussed the following issues:

- Setback Requirement – Since there are no code regulations for communication towers in the City, the Monroe County 120' setback requirements should apply.
- Property Values – Potential reduction in property values. This will not be known until after the monopole is in place.
- Obtrusive View – The Walmart southern entrance will offer a clear view of the tower to the public. Therefore, there is no obtrusiveness at this location.
- Relocation of the Tower – Although repositioning the tower has already been discussed as not an option for SBA, the reasons given are mainly due to expense, not that it is impossible.

Mr. Glenn Schewe, an adjacent property owner, stated he too was concerned about what effect the communication tower would have on his property value. He also expressed concern about guide wires/cable supports and maintenance of the compound.

The Zoning Administrator commented that he defined the tower as an accessory use based on the advice of the City Attorney. A number of areas within the City were considered for placement of the tower, but none of them met the coverage expectations.

Motion was made by Spielman and seconded by Poettker to recommend approval on a proposed Special Use Permit to allow a Communication Tower located at 961 North Market Street, Parcel No. 07-13-300-005-000 in the I-1 Zoning District, as permitted by 40-2-3(B), as requested by petitioner SBA Towers X LLC with the stipulation that when the Communication/Tower support structure is no longer used as a communication support/tower structure for a period of three (3) years it shall be removed at the owner's expense.

Members voted as follows:

YES – Spielman, Powell, Poettker, Loerch, and Boothman.

NO – Gibbs and Hartmann.

Motion carried by a vote of 5/2.

Ms. Heimburger stated she had a question regarding the classification of the tower as an accessory structure. Walmart is a retail corporation, while SBA Towers X LLC is a wireless communications company, each of which is a separate investment and wholly owned by its owner.

COMMENTS:

The Zoning Administrator commented on the following business items:

- Communication Tower – Meeting minutes from tonight should be approved at the June 20, 2024 meeting regardless of whether anything else is on the agenda. The plan is to have this item on the July 1, 2024 City Council agenda.
- Special Use Permits – Need to clarify the one-year extension for a special use permit. The ordinance reads that after two (2) years the petitioner can apply for a one-year extension at no cost. However, the ordinance and the meeting minutes appear to conflict. Can any petitioner apply for a one-year extension or does the one-year extension only apply to those individuals who had outstanding permits at the time the ordinance was passed. The Zoning Board Members agreed that the Special Use Permit should be granted for two (2) years and that the petitioner may apply for a one-year extension without incurring any additional expenses.

Motion to adjourn the meeting at 8:51 PM was made by Boothman and seconded by Spielman.

Motion carried.

Minutes respectfully submitted by Mechelle Childers.