

CHESTERTON BOARD OF ZONING APPEALS
AUGUST 27, 2015
6:30 P.M.

The meeting was called to order at 6:30 p.m. Present were members F. Owens, J. Kowalski, J. Ackerman and President R. Corder. Town Engineer M. O'Dell was present. Attorney C. Parkinson was present as legal advisor. The pledge of allegiance was recited.

APPROVAL OF MINUTES

Member J. Kowalski moved approval of the minutes from July 23, 2015 seconded by member J. Ackerman and passed by unanimous voice vote.

PRELIMINARY HEARINGS

Steve Tolton requesting a variance to increase cement lot coverage from 30% to 35%. **Petition 15-09** Mr. Tolton was present. He told the board two days before closing on his new home in Stone Meadows subdivision he was informed that the properties percent of lot coverage was over by 5 percent. There was an in ground pool installed by Caribbean Pools and in their permit submittal they did not draw the appropriate cement coverage. The property builder also neglected to include a patio. The property owner stated that he had no idea that there are requirements for lot coverage and guessed the builder had no knowledge either. He said he was granted an occupancy permit and able to close on the house. He was informed that he needed to seek a variance to increase the percentage of lot coverage.

Member J. Kowalski commented that the Findings of Fact are in order and well written.

Town Engineer M. O'Dell commented that the percentage of lot coverage should not be an issue.

Member J. Kowalski moved to set this item for public hearing at the September 17, 2015 meeting seconded by member F. Owens and passed by unanimous voice vote.

PUBLIC HEARINGS

Bethlehem Evangelical Lutheran Church requesting a Use Variance for a telecommunications tower. A second variance is requested for an additional accessory structure. A third variance is requested for a 45 foot height extension for an 85 foot communications tower.

Petition 15-03 Mr. Richard Reily was present as representative for SBA Towers, Bethlehem Evangelical Lutheran Church and Verizon Wireless. He was accompanied by Daniel J. Duhren and Doug Dolan of Dolan Realty Advisors, LLC. and Abdelnasir Shata a radio frequency engineer with Verizon Wireless. He began the meeting with a brief video presentation on the growth market of cell phones and the increased need for reliable service. Upon its conclusion he informed the board that prior to tonight's meeting they had sent notice to 76 residents surrounding the site inviting them to attend a meeting where they would discuss the proposed changes to the Bethlehem Evangelical Lutheran Church petition. The meeting was held on

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Wednesday Aug. 26, 2015 at the church. Of the 76 residents 16 people attended. After viewing the SBA application containing photo simulations and the site plan which depicted the monopole disguised a tree 14 were in favor 1 was against and one had no comment.

Mr. Reily told the board that although the location is surrounded by vacant property it to would soon be developed residential. This lease on the church site is for a term of over 50 years. It is never going to be developed. You can't ask land owners to commit to a 50 year lease. That is precisely why this cell tower is needed in this southern location. Current households as well as future households use cell phones, I-Pads and laptops that utilize wireless services daily. As this area develops with more residents this site only becomes more important in providing those services.

Failed calls are monitored by customer complaints as well as a computer that tells carriers when a call is dropped or cannot be made. This data gets fed back in a report and carriers understand where they need to improve services. He gestured to site plan which insured the maximum separation from the existing residents. The nearest residence is 469 feet away. Furthermore, a depiction of the mono-pine design was revealed. He explained how actual antennas are arms of the tower and designed with socks over them disguising them as a tree. The material used to form the trees is signal transparent. A well working cell site promotes health and safety within a community. It is not a nuisance it generates no noise other than when a generator would kick in to provide continuous service in the event of a disaster. There is no better a safety device in an emergency situation providing cell service for 911 calls to first responders.

Mr. Reily mentioned that communities are evaluated by future business owners and corporations on their ability to provide reliable cell phone services. The SBA tower has added decorative landscape and reduced the tower height from the original asking of 115 feet to 85 feet. They are currently asking for two variances the first being to increase the height of the tower from the allowed 40 foot height to an 85 foot height. The second variance is for the accessory structure.

The direction of the future is the use of the cell phone in the home with no land line. Mr. Reily commented that in many instances the church is considered a first responder. Offering care and compassion to its congregation as illustrated in a letter received from Pastor Erik Grayvold. The church hosts a youth group where often times, parents drop their children off. In case of an injury or emergency the church would be responsible to contact first responders and guardians. This cell tower enhances the lives of citizens and furthermore protects the lives of the citizens of Chesterton. He respectfully requested the board to approve the variances requested.

President R. Corder commented that the public comment portion of the public hearing was declared closed at the July meeting but due to the change in the proposal he thought that the board might entertain reopening the public comment portion of the public hearing with those in attendance keeping their comments addressed to only new evidence.

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Member J. Kowalski moved to reopen the public comment portion of the public hearing seconded by member J. Ackerman and passed by unanimous voice vote.

President R. Corder asked for a show of hands from those in attendance who supported the petition. A large percentage of those in attendance would show support for the petition.

Rev. Erik Grayvold of 1631 S. 6th Street, Chesterton was present to speak in support of the petition. He said the people of Bethlehem Evangelical Lutheran Church stand in support of their church building a cell tower on the church property not out of any financial purpose but for the mission purpose of their congregation. He said our pastor has lost phone calls while on duty that delay services of other members within our community. This cell tower will add security and improve the livelihood of their members themselves as well as surrounding neighbors. He submitted a petition with the signature of 96 people in support of this build out. In addition on July 29, 2015 the church was broken into by someone. The police were called. He said, they do have an ADT Security System and have the option of having the pulse technology on their cell phones to access the cameras but because there is no data support in that area they were not able to utilize the cameras/phones feature, because there was no cell phone reception. Had they been able to utilize that feature they might have been able to aid the police significantly in the investigation and at an earlier time.

Alycia Maiville of 1460 Maximillian Dr., Chesterton was present to speak in opposition to the petition. She said she does not understand why this cell tower is needed. She lives in that area and is a Verizon customer and has never had a dropped call. She described her service as perfect. She didn't understand how the church could have a hardship if this was not installed. Their staff could very easily opt to use a land line. She expressed concerns about property values. She asked if Verizon had attempted to find another suitable location. Is there a list of properties Verizon has evaluated? Did Verizon first approach the church about construction of the tower? She asked how much the church stands to gain by the construction of this tower. Does there need to be a paved way to access the tower?

Mark Maiville 1460 Maximillian Dr., Chesterton was present to speak in opposition to the petition. He reminded the board that last month he brought forth a petition with 61 signatures on it of those opposed to the petition. He said an internet search shows 16 cell sites within a 3 mile radius of this. He said he sees no need. He has perfect Verizon service.

A man approached the floor questioning whether he was required to give his name and address. Attorney C. Parkinson said the disclosure of name and address was a requirement as a part of the legal record. If there was an appeal the person would be named as a legal party for service of process.

Bob Sanders of 1380 Maximillian Dr., Chesterton was present to speak in opposition to the petition. He expressed concerns about decreased property values. He commented that the tower

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would be right against the baseball field. He wanted to know who would replace the leaves on the mono-pine when they fall down. He commented that the church should be saving souls instead of ruining neighborhoods. He said they don't care about the neighborhood around them.

Rev. Erik Grayvold said he took offense to that remark.

President R. Corder reminded remonstrators that comments should be directed to the board.

A letter of opposition from Jennifer Gadzala of 2671 Bogey Blvd., Chesterton was received. She's expressed concerns about decreased property values. She said she had little to no problems with dropped calls.

There being no other persons wishing to speak the public comment portion of the public hearing was declared closed.

Abdelnasir Shata a radio frequency engineer with Verizon Wireless said the cell tower in that particular location is necessary. A tower placed in any other location would not reach out far enough to provide reliable service.

Mr. Reily said the issue of demand for the site is not going to go away. There is a capacity issue in that location and no other land owner would be willing to enter into a 50 year lease. The towers location will have a ripple effect with the other towers miles away thereby enhancing the areas overall coverage. This site with its mono-pine design and landscape will be a quarter of a million dollar built-out, if there was another site, that would have been explored. The unmanned facility will not adversely impact the baseball field. There would be no access road abutting neighboring residents.

Attorney C. Parkinson called attention to the fact that the Development Standard plans show four individual pods on site.

Mr. Reily said those are future use location buildings. The addition of accessory structures would not change the façade of the facility.

It was agreed that if a maximum of 3 additional structures would be added in the future, they would need to come back before the BZA for a Developmental Standard variance.

Town Engineer M. O'Dell said Verizon has 1 use for the accessory structure additional carriers would need to get permission from SBC for lease space on the tower. SBA would need to provide a copy of any lease agreements as proof and permission to be on the tower. They would need to provide affidavits for future co-locations. He would also require a revised set of drawings. Maintenance of the tower should be made a condition of record. Furthermore he requested a copy of the RF Report and structural calculations.

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Mr. Reily was in agreement. He said SBA promised to maintain the structure.

Member J. Ackerman commented on the fact that 76 invitations were sent out to residents and only 16 people attended the informational meeting hosted at the church. There were 14 people supporting the newly proposed mono-pine. There was only 1 opposed and 1 no comment.

Member J. Kowalski said that since the last meeting he has made an effort to notice the placement of cell towers. Travels to the northern suburbs where homes are much more expensive seem to have a lot more visible cell towers. He commented it sure doesn't seem like their property values have been affected. Although the one gentleman had presented a petition with 60 signatures opposing the cell phone tower, there was no way to prove if those signatures represented people who own homes in the area and or rent. Furthermore he didn't think the tower would affect activities at Dogwood Park.

Member F. Owens commented that he could see how service would be improved and why the tower relieves capacity by the ripple effect in the system. He asked how much the monthly lease would be on the property.

Member J. Kowalski commented that he didn't think they wanted to get into the financial portion of the lease agreement.

Mr. Reily said 50 year lease is between the church and SBA and the dollar amount of that lease is within the normal parameters.

In conjunction with Attorney Parkinson it was the general consensus of the board that the following conditions be made a part of record; hereto attached and made a part of these minutes.

Member J. Kowalski moved to close the public hearing seconded by member F. Owens and passed by unanimous voice vote.

Member J. Kowalski moved to approve the variances requested contingent upon the Findings of Fact being re-addressed as stated in the conditions and a site plan approved by the town engineer. The gavel was passed as member R. Corder seconded the motion which passed by a 3 to 1 voice vote. Member F. Owens voted no.

OLD BUSINESS- None

NEW BUSINESS

The vacancy on the BZA with the resignation of former member T. Browne should be filled by the next month's meeting.

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MISCELLANEOUS BUSINESS- None

ADJOURNMENT

There being no further business before the board member J. Ackerman moved adjournment seconded by member F. Owens and passed by unanimous voice vote. The meeting adjourned at 8:00 p.m.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved:

R. Corder, President

Petition 15-03

Petition of Bethlehem Evangelical Lutheran Church

Address: 2050 West 1100 North, Chesterton, Indiana 46304

Date of Public Hearing: August 27, 2015

REASONABLE CONDITIONS ON GRANT OF VARIANCES

The Town of Chesterton Board of Zoning Appeals imposes the following reasonable conditions on the grant of variances:

1. References in the Findings of Fact to any obligations or commitments of "SBA Communications LLC" shall be replaced with "Petitioner, Bethlehem Evangelical Lutheran Church."
2. Petitioner shall construct the tower and the structure surrounding the tower in substantial conformity with the drawings and renderings presented to the BZA at the public hearing on August 27, 2015.
3. Petitioners shall be responsible for maintaining the monopine tower and the structure around the monopine tower, including the landscaping around the fence and the "branches" on the monopine tower, to ensure that there is adequate concealment of the tower and its supporting structures.