

A meeting of the Jasper County Board of Zoning Appeals was held Monday, August 17, 2020 at 7:00pm. via Zoom with the following members online: Kent Korniak, Jim Martin, Scott Walstra, Lance Strange and Mark Jordan. Also present: William T. Sammons, Law Offices of William T. Sammons P.C., Mary Scheurich, Director and Kelli Standish, Secretary. Absent were: None.

Meeting was called to order by Chairman Scott Walstra. The first order of business was the call for approval of the July 2020 minutes.

Kent Korniak made the motion to approve the July 2020 minutes. Motion was seconded by Mark Jordan and carried unanimously.

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Special Exception  
Variances

Cause#BZA-11-20  
Cause#BZA-12-20

Applicant: Verizon Wireless  
Landowner: Janice Schlarp  
Location: Sec.18-31-7 –Walker Twp. – Hwy 231 & St.Rd. 110 SW Corner  
Use: New Wireless Communication Facility.

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Public hearing held pursuant to notice published August 5, 2020 in the Rensselaer Republican, a newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners. All as shown by the affidavit of Charlene Malinowski, Clerk of the Rensselaer Republican.

Scott Walstra stated that since they have two applications before the board they will hear both the Special Exception and the Variance at the same time and then make two separate motions on the application's.

Elizabeth Williams was present and stated that she is a land use planner with the applicant. She is going to turn the presentation over to their Attorney Russell Brown.

Attorney Russell Brown representing the applicant stated that they are asking for a Special Exception and two variance approvals. One variance is for the height of the tower and the second one is for the structure of the tower. They are asking for a structure tower verses what the code requires, a monopole. The proposed tower will be 285ft. with 5ft of lightning rod. The proposed application is located at the corner of St.Rd. 110 and Hwy 231. The parent tract is approximately 43 acres and they will be leasing a 100ft. by 100ft. area. They do meet the county set-backs. The Verizon tower will be able to utilize up to 3 co-locating companies. They have a proposed landscaping site plan that has been presented with the application. This tower will increase the coverage for several people in the area. They have enclosed a letter regarding their fall zone stating that if the tower does fall it will fall within the parent parcel. There is a letter from the FAA regarding a "Determination of no hazard to air navigation" in the file stating that they have approved this tower at the height they are proposing and the location. The tower does require lighting at the top and in the middle. They feel they have meet all the requirements for both the Special Exception and the Variance application.

Kent Korniak asked if Attorney Russell Brown could explain the difference between the two different tower structures. He also asked how you know the tower will only fall within the property. He asked if this type of tower is currently located somewhere.

Attorney Russell Brown replied that a monopole tower is a galvanize solid material all the way up pole type tower and a self-support or a lattice tower looks like an erector set but they are not guyed wires so there are no supporting wires coming from the towers to the ground. These towers are designed to collapse at their weakest point. They do not fall they collapse internally or at the weakest point. The maximum fall would be 150ft. and there is nothing that is that close to be in the way. He replied affirmatively, that they have the same structure as the proposed one in other counties.

Mark Jordan asked if you could explain why you are going with a different tower and size verse what our code requires.

Attorney Brown replied that for the height variance they are asking for is because usually the taller the tower the broader the area you can cover and they can add other carriers as well. As for the development standards it's hard to do a monopole that size.

Scott Walstra asked if anyone present had any opposition to the application. There was none.

Mark Jordan made the motion to grant approval for the Special Exception. Motion was seconded by Jim Martin and carried unanimously.

Attorney Brown read the finding of facts which were submitted with the application.

1. The proposed Special Exception is consistent with the purpose of the zoning district and the Jasper County Comprehensive Plan:

**Response: The Comprehensive Plan recommendations do not designate specific locations for WCF's because the needs span to all areas of the community. The proposed use is in accordance with the objectives of the Comprehensive Plan and the Zoning Ordinance because the location and the proposed site plan indicates the ability to co-locate 3 addition users which should reduce the need for other towers with the same coverage needs in the area.**

2. The proposed Special Exception will not be injurious to the public health, safety, morals and general welfare of the community (consider whether the special exception will hurt or potentially cause harm to the county).

**Response: The subject property is currently open space in an agricultural setting. The WCF provides needed signal coverage for the area as well as providing for three collocation opportunities. The proposed use is heavily regulated by both the FAA and the FCC. The proposed development will be**

**designed, constructed and operated in compliance with all such federal and state laws.**

3. The proposed Special Exception is in harmony with all adjacent land uses.

**Response: The required setbacks will be met. The facility/tower will also be in compliance with all other applicable local, state and federal regulations. It will serve the public convenience and welfare because the proposed facility will provide needed signal coverage for the area. Lighting will be limited to that required by the FAA. Additional lighting is limited security lighting. Noise is limited to the testing of the generator and only operates to test, during normal business hours, and the actual running of the generator in the case of power failure. The base of the tower will be fenced and secured and the ground equipment will be shielded by the installation of perimeter.**

4. The proposed Special Exception will not alter the character of the district.

**Response: The proposed use will be designed, constructed, operated and maintained in a manner consistent with the area and will not change the essential character of the area because the surrounding land use will remain agricultural. The facility will be fenced and landscaped to protect and screen the base of the facility.**

5. The proposed Special Exception will not substantially impact property value in an adverse manner (consider whether neighboring property will suffer any major negative impacts).

**Response: The remainder of the property will continue to be utilized in agricultural production. The proposed WCF would serve the area and future uses in the area. Cellular and internet service provided by the proposed facility is essential for all areas of a growing community for development as well as public safety.**

6. No appreciable environmental harm will result from the use allowed by the special exception or if such harms could result, such resulting harms are eliminated or reasonably mitigated by best practice measures taken by the applicant or others in relation to the use of the special exception.

**Response: The proposed use is heavily regulated by both the FAA and FCC. The proposed development will be designed and constructed in compliance with all such federal and state laws. The proposed use will serve the public like all essential services. The proposed facility will provide needed signal coverage for the area. Cellular and Internet coverage is a necessary amenity and service and needed in all corners of the community.**

Scott Walstra stated that there is a motion to approve the application, and the board must

consider the findings in Chapter 20.90.140, Special Exception (e)(7)(i) through (vi). Scott Walstra then read the Findings of Facts.

- i. The proposed special exception is consistent with the purpose of the zoning district and the Jasper County Comprehensive Plan;

The board unanimously voted that the applicant met the requirements of (i).

- ii. The proposed special exception will not be injurious to the public health, safety, morals and general welfare of the community;

The board unanimously voted that the applicant met the requirements of (ii).

- iii. The proposed special exception is in harmony with all adjacent land uses;

The board unanimously voted that the applicant met the requirements of (iii).

- iv. The proposed special exception will not alter the character of the district;

The board unanimously voted that the applicant met the requirements of (iv).

- v. The proposed special exception will not substantially impact property value in and adverse manner; and

The board unanimously voted that the applicant met the requirements of (v).

- vi. No appreciable environmental harm will result from the use allowed by the special exception, or, if such harms could result, such resulting harms are eliminated or reasonably mitigated by best practice measures taken by the applicant or others in relation to the use of the special exception.

The board unanimously voted that the applicant met the requirements of (vi).

Kent Korniak made the motion to adopt the proposed Findings of Facts as presented by the Applicant. Motion was seconded by Lance Strange and carried unanimously.

Scott Walstra asked if anyone present had any opposition for the variance. There was none.

Kent Korniak made the motion to grant the height and structural variances for the proposed tower. Motion was seconded by Mark Jordan and carried unanimously.

Attorney Brown read the proposed Findings of Facts which were submitted with the application.

- i. The approval of the variance will not be injurious to the public health, safety,

morals and general welfare of the community.

**Response: The subject property is currently open space in an agricultural setting. The wireless communication facility (“WCF”) provides needed signal coverage for the area as well as providing for three collocation opportunities. The proposed use is heavily regulated by both the FAA and FCC. The proposed development will be designed, constructed and operated in compliance with all such federal and state laws.**

- ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

**Response: The required setbacks will be met. The facility/tower will also be in compliance with all other applicable local, state and federal regulations. It will serve the public convenience and welfare because the proposed facility will provided needed signal coverage for the area. Lighting will be limited to that required by the FAA. Additional lighting is limited to security lighting. Noise is limited to the testing of the generator and the generator only operates in the case of a power outage. The base of the tower will be fenced and secured and the ground equipment will be shielded by the installation of a perimeter.**

- iii. The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.

**Response: The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because the WCF is needed to serve the area with reliable and needed cell service. The height requested is needed to transmit at the required frequencies. The required height prohibits the use of a monopole at this location. However, the tower will be free standing without guy wires.**

Scott Walstra stated that there is a motion to approve the application, and the board must consider the findings in Article 9, Variance 20.90.190 (7)(a)(i) through (iii). He then read the Findings of Facts.

- i. The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community.

The board unanimously voted that the applicant met the requirements of (i).

- ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

The board unanimously voted that the applicant met the requirements of (ii).

- iii. The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.

The board unanimously voted that the applicant met the requirements of (iii).

Jim Martin made the motion to adopt the proposed Findings of Facts as presented by the Applicant. Motion was seconded by Mark Jordan and carried unanimously.

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Upon motion duly made and seconded, meeting was adjourned.

A TRUE RECORD;

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Scott Walstra, Chairman